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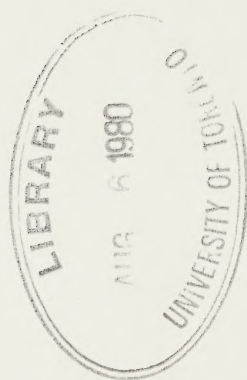
















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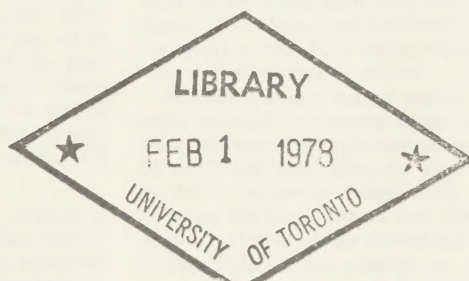
No. J-1

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Justice Committee

Estimates, Ministry of Correctional Services



**First Session, 31st Parliament**

Wednesday, December 7, 1977

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.



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## LEGISLATURE OF ONTARIO

WEDNESDAY, DECEMBER 7, 1977

The committee met at 10:05 a.m.

### ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

**Mr. Chairman:** I see a quorum, as long as it is not challenged. The minister and the two critics are here; that looks like a quorum to me at the moment.

Does the minister have an opening statement?

**Hon. Mr. Drea:** Thank you, Mr. Chairman. It will be very brief. But first of all, for the convenience of Hansard, perhaps the deputy would like to introduce the staff who are at the table.

**Mr. Thompson:** Mr. Chairman, my name is Glen Thompson. The gentlemen to the left of me start with Mr. Harry Hughes, assistant deputy minister of operations; Mr. Michael Algar is the assistant deputy minister of planning and support services; Don Kerr is our director of the information branch; Mr. Glen Carter is the executive director of our adult programs, both the institutions and the probation and parole services. We have a number of other staff here with us and we would prefer to call upon them as we get into particular questions for individual areas. I'll introduce them at that time.

**Mr. Chairman:** Hansard has expressed concern to me that, because of the few microphones we have here, each person speaking should make an effort to obtain a microphone and speak into it.

**Hon. Mr. Drea:** Mr. Chairman, I will be very brief. I realize that the estimates book, or the briefing book for the ministry is a very difficult thing to follow this year, because, of course, by statute we were required to include the entire estimates for 1977-78 for juveniles. That particular aspect of the ministry was transferred on July 1.

I realize that puts the members in a somewhat difficult position, because I have no responsibility. I do not make the policy, nor do I have any administrative role to play in the juvenile program, which is now under the Ministry of Community and Social Services. Therefore in a great many cases, it shows us to have a much larger staff, much higher expenditures than we really have, be-

cause for practical purposes these have been transferred out.

One of the difficulties in these estimates is that the report of the Ombudsman is still to be produced, which has been going on for some time. As you know, it has been my policy since I was sworn in on September 21 that I would await receipt of the Ombudsman's final report. I would then arrange to have it distributed publicly so that there would be the widest possible expression of views on that report.

One of the difficulties with that report is that the government structure is such that when the Ombudsman makes comments, they go back to the ministry; they then go back to the Ombudsman for clarification or further comment et cetera. These, as I understand it, are in the final stage now between my deputy minister and staff and the Ombudsman. I have not yet seen them. I don't intend to see them until they are in their final stage. Therefore, unfortunately, we cannot comment at this time upon whatever is, or is not, in that particular report.

Notwithstanding that, I would like to make some general comments about the relationship between the Ombudsman and the Ministry of Correctional Services. First of all, it has to be a different relationship than exists between the Ombudsman and other ministries or other sectors of the provincial government.

The federal government at the moment does not have a general Ombudsman. Nonetheless the federal penitentiaries have had for some time a penitentiary Ombudsman. The federal penitentiary Ombudsman does have the right to come into our jails, particularly in the case of a federal parole violator who has complaints; they do have jurisdiction in that regard. Since their reports are public, and while we are self-contained as a ministry, we have very definitive jurisdictional lines. While we are still under the umbrella control of the Penitentiaries Act, therefore, we cannot exceed the regulations of that Act; we don't necessarily have to go as far, but we cannot exceed, nor in any way can we deviate from, the principles laid down by that particular statute.

It has been my concern that to attempt in any way, shape, or form, to delineate in a

new way the role of the Ombudsman within the Ministry of Correctional Services system in this province is impossible. You cannot have two standards. You cannot have a standard in a local jail or in a reformatory, where somebody might very well be held, but because he is a federal prisoner he has certain rights and the federal Ombudsman—or Ombudsperson, actually—must be accommodated and there should be some strictures placed upon the Ombudsman in this province because of the relationship with other ministries.

[10:15]

It is my view that the Ombudsman in our system is worth about \$10 million extra on the budget. I know there are some comments that a number of things going forward from inmates are so trivial that they shouldn't go. The truth of the matter is the fact that the inmate has an absolute right to a private dialogue albeit in writing with the Ombudsman has been most helpful and extremely necessary in preventing disturbances, occurrences and so forth. You have to remember that in a local jail at least 50 per cent of the inmates on any given day are remand prisoners—that is, the courts have refused them bail; they've been committed for trial; they have to sit there and wait. They cannot work. Their activities are extremely limited. There is the question of boredom.

There is a problem with the restlessness of people who are waiting in rather grim determination, somewhere down the line, who aren't in control of their own destiny because they don't set the court date, the courts do. The fact that they can communicate with the Ombudsman about their grievances real or imagined has been very helpful in our institutions.

While the particular complaint or the particular referral to the Ombudsman may be very trivial, to the person who is incarcerated awaiting a decision, or is incarcerated for a period of time, there is a least the feeling that they are not being held incommunicado; they are in touch with the outside world. This has produced generally, a very beneficial impact.

There is no question that from time to time the Ombudsman ruffles feathers. Not every superintendent of every institution is pleased to see the staff of the Ombudsman arrive at the door and want to get details. I suppose I would be less than human to say that the minister doesn't get ruffled from time to time about the Ombudsman. But as long as I'm the minister, the full letter of his Act is going to be obeyed in all our institutions.

The rule of thumb is that when his investigators come in, they are to be called "sir" or "madam," depending upon their gender. They are to be given the full co-operation of the staff in whatever their endeavours are and the Ombudsman can make his report without fear or favour, which I know he would do anyway.

As the minister I don't think I should have the right to start deciding at what point a complaint is trivial. A great many complaints over the years that started out as being very trivial were only the tip of the iceberg and they led to very substantial items, either in the way that they were reformed or at least exposed.

As you know, the present system has now by regulation—although I don't think it's necessary—been extended to the federal Ombudsman. When the inmate wants to communicate he gets the paper, he gets the envelope, he seals the envelope that goes to the Ombudsman. The communiqué from the Ombudsman's office comes back and, unopened, goes directly to the inmate. If the Ombudsman chooses to bring it to our attention, fine. If the Ombudsman does not choose to bring it to our attention, well and good. I think this method has produced a very beneficial impact and a healthy climate in our institutions.

I think, Mr. Chairman, that's all I have to say in my opening remarks. I think both the critics have been briefed. I think they're aware of your familiarity with the ministry and I know they have particular concerns so I would like to proceed with them.

Mr. Bradley: It's with pleasure that I participate in the estimates of the Ministry of Correctional Services, a ministry which in years gone by did not have a particularly high rating you could say. The fact that it is now elevated to a new level can be traced to a minister who has done a lot of things that past ministers have either not chosen to do or simply have not done for other reasons.

First, I would like to thank the minister for providing the opportunity for the opposition critics to be briefed before the estimates. This gave us an opportunity to discuss with his very able staff many of the programs that are coming forward and some of the expenditures that will be made in the new year. I don't think this is necessarily a standard practice. It may happen in other ministries; I don't know. Personally, I found it very beneficial and again characteristic of, let's call it the new type of thinking that the minister has. I would like to review



some of the work that he's done in his 10 weeks in office. I think much of it has been beneficial to the correctional system.

Compared to his predecessors, he has been a man of action. He's discontinued the use of coffee and imported fruit juices in all provincial correctional institutions. To inject a personal note for a very brief moment—I come from an area of the province which produces tender fruits and therefore benefits from the use of apple juice and grape juice. Movement in this direction may be very small to many people, but I think it's a positive action because it is indicating that at least one ministry of the provincial government is interested in promoting the products of agricultural Ontario in a very tangible way. I give the minister full credit for that.

He has requested the royal commission on the northern environment to recommend that the ministry be granted cutting rights to Crown bush areas and marginal land in order to provide work opportunities for lawbreakers who would otherwise have to serve jail terms. I think we recognize the serving of jail terms is not always very productive in terms of rehabilitation.

In co-operation with the Attorney General (Mr. McMurtry) the pilot projects to administer the community service order program have been established and he has announced the closure of five old jails, including the Don Jail which the minister has described as "a festering sore."

The way the other three ministers who have occupied this portfolio in the past year have treated it is indicative of the impact he's had on corrections in this province. One of his predecessors, Mr. Smith, was the minister at the beginning of the year and some have intimated to me that they didn't know whether he really understood the problems of corrections at all. It is difficult for me to judge, not having been a member of the Legislature at that time, but I don't think I would be inaccurate in saying that Mr. Smith wasn't rated as one of the top corrections ministers in recent years.

He certainly did not seem to be in control when the coroner silenced him on the Stratford Jail incident. I would presume that no coroner would be able to silence the present Minister of Correctional Services.

The other two seemed to be fill-in ministers. Mr. Meen coasted along until the election and then Mr. MacBeth was kind of a caretaker over the summer. I once called for the closing of the Don Jail, which was really reinventing the wheel because everybody else in the province who had any interest in Correctional Services had called for the same

thing, but both of them contended that the Don Jail could not be closed. I remember Mr. Meen said to the House it wasn't practical and he lectured the House last April 19 on how government had to be realistic. We in this party agreed, and we still do, although his conception of reality and ours were probably totally different.

One commentator referred to this explanation as "compost" and characterized Mr. Meen's general approach the following way: "He has the style of a teacher who commented on an autistic child huddled all day under her desk, 'Works well on her own'."

Mr. MacBeth stalled for time, and upon receiving the report of the Toronto building commissioner and fire chief declaring the Don a dangerous fire trap, he dismissed the problem in a callous—and I thought rather cavalier—fashion with the comment, "The Don Jail is no more a fire hazard than any other old jail in Ontario." I think this completely missed the point.

To make matters worse, and perhaps to prove he was right, he arbitrarily doubled the number of prisoners in the new Metropolitan Toronto west and Toronto east detention centres. In addition to the overcrowding in the deplorable Don, there were to be overcrowded, depressing and dangerous lockups in Scarborough and Rexdale as well. What was the point of spending \$30 million to design and build two new jails with a reasonably civilized amount of space, light and privacy, only to suggest that a space intended for 200 be crammed with 340?

Perhaps the minister can enlighten us as to whether he's proceeding with this hare-brained idea, although I think the minister indicated that there could be some accommodations made that would not be out of line in this regard.

Perhaps the closure of the Don Jail will only exacerbate the crowding in the two new facilities. In all seriousness, I would be pleased if the minister would tell us how he will approach transportation and relocation difficulties. There are obviously going to be problems and I am sure later he will indicate in detailed remarks how he will approach them.

While I'm speaking of the Don Jail, I'd like to say I watched the minister's interview outside the House. I thought it was a very colourful and interesting interview. I would like to ask the minister if he has given any further thought or consideration to preserving the building as an historical monument. I suggest I might know the answer to that, but there certainly has been a lot of comment in that regard. I know the minister said



earlier that he doesn't see merit in this proposal. Has he reconsidered after certain representations have been made to him?

As the minister no doubt knows the jail was designed by William Thomas, who is known for his classically-oriented designs. Other structures designed by him include the St. Lawrence Hall, St. Michael's Cathedral in Toronto and the Brock monument in Queenston. A case could be made for the preservation of this building, particularly certain portions that might be either architecturally beautiful or beneficial. No doubt the minister will have many colourful remarks to make on that issue.

Before I leave this subject, I'm wondering if the minister could say precisely, and I know it's difficult, when the royal commission report on the Don Jail will be finished? This commission was established in November 1974 to investigate allegations of brutality in the Don Jail. Instead of being a short study which might have precipitated some changes at that time, it turned out to be a long inquiry which cost—and correct me if I'm wrong—something like \$655,000 by the end of March 1976. Because of the inordinate length of time that the commission has taken, the mandate has been completely undermined. We would assume that by the time the report is written, the alleged mistreatment will be almost ancient history.

During the past year we have had some reports of violence at the Don. I know the minister dealt with this in one of his statements. Previous ministers have assured us that there is no goon squad there but I was wondering if the present minister has satisfied himself beyond all doubt that the conditions are such that we will not see an outbreak of violence or hostage taking—at least that those conditions have been minimized in the Don Jail.

This brings me to a more general point which is central to modern corrections. This again is nothing new; many people have said that custodial care is very expensive and often ineffective. I understand it costs in excess of \$12,000 a year to keep someone in jail and rehabilitation seems to be a rather tarnished idea.

The return rates of prisoners show that custodial care does not allow for proper social reintegration. Therefore it is incumbent upon us to seek cheaper and more effective alternatives and to use them as much as possible. We're not yet in a position to know which types work best. I realize we must be creative and we must experiment.

Again, I give the minister credit for being prepared to experiment, although I think he recognizes, as we all do, that society will have to accept some of the risks and responsibilities that go with these innovations. Since crime is a problem whose causes are deeply rooted in social action, it's right that society should be prepared to do so. The minister can certainly count upon the backing of this member and, I'm sure, of the official opposition, in his efforts to be innovative and to take those kinds of risks.

There will always be a need for some institutional measures and custodial programs for groups of offenders who are bad risks. However, I have a few suggestions that perhaps could be raised at this time.

The possibility of converting old structures instead of building new ones has been raised. The minister has said that some of the older structures in this province are, in fact, in good shape and shouldn't necessarily be closed down because they're old.

[10:30]

Prior to the announcement of the closure of the Don a Toronto architect was asked to locate and cost downtown alternatives to the Don Jail. He found at least five buildings which could be renovated for maximum and minimum security use. One could buy the shell of the building and replace the inside, ending up with a safe, fireproof, efficient jail. The cost of the acquisition and conversion would be no more than a new building in most cases, and perhaps less in many cases.

The main advantage of such a scheme is that it would be possible to locate the jail near the court and near the family and next of kin. Studies have shown that if a jail is not on a public transportation route, chances are that few people will visit the inmate. I think the minister recognizes as well as anyone the importance of having the family maintain a relationship with the inmate to make his reintegration with society easier and to help him maintain some sense of self worth.

Since the cost difference between maximum and minimum security cells is huge—I think it was the minister who indicated that this costs more to build than a luxury hotel suite—it's very important to distinguish the first-time offender, or the man on bail, from the fellow who is returned to the institution many times. In this connection, perhaps the minister would advise us as to how the inhabitants of the Don Jail are going to be sorted out, taking into consideration that there will be those who are on remand and those who are more serious offenders.

I know the minister has committed himself to presenting to the Legislature and to the public the report of the Ombudsman on the correctional services in the province of Ontario. This is a positive step and I think we are reassured that everyone will be able to examine the report very carefully.

There are some alternatives to official custody. I suppose I'm in a position to ask, "Why didn't you do it before?" because the minister has taken the bull by the horns and is doing a lot of these things now. You've almost spoiled the estimates for the opposition, Mr. Minister, by doing things ahead of time, things we hoped to suggest to you and then have you implement. Many members of the opposition, and indeed members for your own party perhaps have suggested these in the past. I know those in your own ministry have suggested these changes. I think they're quite beneficial.

One of the problems is that we have to evaluate these measures quickly to decide whether they are going to work. In the past, some of these alternatives have been put into effect and then studied to death so that after five or 10 years, somebody found out that they were not working but they were nonetheless studied and studied again. I recognize that you're not going to be 100 per cent accurate in doing this, but you should develop some method of evaluating the programs that you are bringing forward within a reasonable amount of time. You could then chuck out those that aren't working and maintain those that are. A rather interesting concept is the work gang, or what people unfairly called the chain gang. I know the minister rejects that term and we certainly do as well. My concern is—and I've expressed it to members of your ministry and was given assurances that this wasn't going to happen—I think we have to be absolutely certain, in times of high unemployment, that potential jobs are not being lost.

With his background, I know the minister is concerned about employment and that those who are in institutions are not replacing others. I would be concerned that the unions would be contacted so there could be a concrete definition of those jobs that wouldn't otherwise be done and which haven't been done in the past and which, realistically, wouldn't be done in the future by regular employees of the provincial government.

I didn't really grasp whether these people on road gangs are to be paid. The report on the Georgia gangs indicates that since there

is no pay, some inmates have taken to prostitution to earn pocket money. We certainly would not want to see this situation in the province. The minister may want to elaborate a little further on that.

Looking generally at your approach to the incident in the Barrie jail, I would comment that it was a rather positive reaction. I suppose in some cases we can understand why we have incidents of this kind. It is because of overcrowding and perhaps other conditions you are trying to alleviate in the year ahead.

But I think that where the compliment comes in is the fact that you have dealt with this in a rather firm manner, indicating pretty clearly to inmates in the province what you are prepared to tolerate. I think the public would back this; I think that fair-minded members of the opposition would back this if we were assured the conditions that precipitate these kinds of outbreaks were not that serious, and the minister has indicated that in his opinion they were not serious in the Barrie incident.

I would be interested in the closing of certain jails. I discussed this with your ministry officials yesterday and was relatively assured there would not be major problems of transportation. I know you can get into a very large budget now in the province with transporting back and forth to court prisoners who are remanded. If I understand it correctly, your ministry is charged with this cost and we may want to explore how that may be assigned to another ministry. Ultimately, the cost is going to come from the taxpayer, we all know that, but we may want to examine where that cost can be best assigned to show what the real cost is.

We had a very vivid description of the Kitchener jail in the House and it is understandable that we would want to close it down. It was a dungeon. Some of the jails, I recognize, are also located in prime locations for redevelopment within a municipality and we might well want to move them, if not right out of the city at least to another location not so prime for development. We would, of course, want to be assured, as I think you have attempted to do, that those employees who are displaced by the closing down of any of your jails in the province would be suitably redirected—that there would be no loss of jobs. I must say that I am assured by that fact because I don't think you are padding. It is not a matter of padding—transferring them from one place to another. Obviously you have certain institutions where you feel the staff complement is perhaps not up to what it should be and this is certainly



a way of overcoming those shortages of personnel in certain institutions.

I am sure we will explore this in one of the votes as we proceed, but I am interested in some of the changes that are being made in the training of employees for your ministry, particularly the correctional officers themselves. I suppose at one time, many years ago, you just took somebody off the street and said, "This is your job." I think we would be going back in history if we were to say that. We see improvements as we go along. One of the things I suppose we could caution against, and I would be interested in the minister's comment on this, is over-qualifying or over-educating some people for jobs, if there is such a thing. Maybe sometimes that can happen in the quest for perfection in correctional officers—over-qualifying in certain academic areas perhaps and not in the areas of relationships between human beings.

I am intrigued—and I don't know why I should be because it is happening in other areas—by the substantial cost the minister had claimed in saving of energy just through using some common sense in the institutions he serves. The ministry is making a sincere effort to save energy simply by turning out the lights at certain times, lowering temperatures at certain times, closing windows, things that we didn't think were particularly important in the past. I suppose eventually you will get into insulating. I think that's pretty positive in saving money because that money can then be directed back into the kind of programs that would be most beneficial to the Ministry of Correctional Services.

I was interested in your comments about the Ombudsman's office and its importance. I think that is a pretty reasonable statement—perhaps daring statement would be better—for a minister to make. I'm surprised he should be so supportive of the Ombudsman who is probing his institutions as an outsider. I think you are breaking new ground in doing that. I can't think of another minister who would be particularly happy about the Ombudsman coming in and investigating on the basis that he has people who obviously in many cases are going to have problems of a rather trivial nature.

I don't share entirely the minister's enthusiasm for this. I wonder what effect it eventually could have on the morale of his employees who might feel, rightly or wrongly, that every time they turn around somebody from the Ombudsman's office is going to be second guessing an action they have taken. I think there are good safeguards in this regard but I think that is one thing we

always have to watch for—the effect on morale.

There have been changes in our society that the police have noticed. They claim that their morale is lowered by the fact that we tie their hands in many cases. Whether it is justified or not is a matter of subjective evaluation. But I would caution that. There are some employees of your ministry—I don't think this is necessarily widespread—who would be concerned that the pendulum might swing too far the other way—in favour of inmates' rights, as opposed to the rights of correctional officers to take what they feel is appropriate action.

I note that through the education programs of your ministry and through the consultations they have with their employees that this can be overcome. Nevertheless this is something I think we have to keep in the back of our minds as being rather important in maintaining the morale of the employees.

I would be interested in your comments on the transferring of youth services to the Ministry of Community and Social Services which I think was a positive step. Your ministry officials have informed me that they still, I guess you call it buy back some services from your ministry. This probably makes sense, particularly in the field of computer services which were rather extensive in your ministry and wouldn't be nearly so comprehensive in the Ministry of Community and Social Services for the entire group that they would look after.

Lastly I would like to look at your comments about wanting to take over the federal parole system entirely so that we would have only one parole system. Do you feel that would be a step towards having one system of corrections in a province where at the present time we have two systems operating—separate federal and provincial institutions?

We recognize there would be problems. I have been informed that you are dealing with two different unions. You are dealing with two different levels of government and sets of employees in terms of their promotions and so on. But I'd like to know what you might see ultimately as steps towards either one or the other taking over—I think you suggested the province would be best in this regard, and I'd expect you would say that anyway, although I think you are frank enough to say the federal government if you thought it could do a better job. So, I would be interested in you elaborating on that as we get further on into your estimates.

So, Mr. Chairman, I thank you for this opportunity to make these comments. I think that perhaps more than in the past they have

been rather positive and that is to the credit of the present minister. We will be watching him carefully of course as the months go on, but we are pretty pleased at the present time at some of the actions that he has taken.

**Mr. Chairman:** I wonder if before we hear the minister's remarks in reply to the Liberal critic if we can go on and have the opening statement from the NDP critic.

**Mr. Davidson:** Thank you, Mr. Chairman. If my remarks sound very similar to those of Mr. Bradley it is not because we sat down together but because I suspect we are on the same train of thought. It seems only appropriate that I open my statement by offering congratulations both from myself and from the New Democratic Party to the new, but already heard of, Minister of Correctional Services. I wish to assure both him and his staff that as a party we will support any proposals which we feel of merit and of course we will be critical in areas where we feel this ministry is lacking in programs or has taken what we consider to be a backward step.

Like the minister, I too am relatively new to the field of correctional services, this being my first attempt to question the estimates or to offer what we feel to be constructive criticism. Although there may be those who look upon Correctional Services as being a lesser ministry I can assure you that I am not one of them. Any time one is dealing with a human element in society, when they have the responsibility of care and treatment for these people, then to my mind that ministry takes on a top priority position within government circles. Because of its very nature it should have, not only among members of this Legislature but throughout the general public as well, a much higher profile. It would appear that the minister also adopts this attitude and we applaud this. So perhaps a great deal of the misapprehension now surrounding this ministry throughout society can be overcome.

[10:45]

The minister has, in his short time in office, carried out several moves which we feel are beneficial. Needless to say, however, they could create problems and we would hope to put some of these problems before you today.

Certainly one cannot be critical of the announcement to close down the old section of the Don Jail and have it torn down. We congratulate the minister for this decision and support his proposal that the building should not be left standing, but rather that it should be levelled as soon as possible. No doubt there are those who would argue against this move, but our position is that the

only memories such a building could hold would be those that would sooner be forgotten.

Similarly, we can find no fault in the announcement to close the Simcoe, Orangeville and Kitchener jails. These also have served their purpose over the years and were long overdue for closure or replacement. Certainly in latter years, their atmosphere contributed not one jot to the possible rehabilitation of anyone confined within their walls. To have allowed them to remain in service would have been an affront to all that the ministry supposedly stands for.

Our concern for the jobs and the welfare of those persons working within those institutions was allayed somewhat by the minister's statement, reconfirmed during yesterday's briefing, that all staff affected would be offered employment by the Correctional Services ministry in other institutions. We trust that this commitment will be honoured, and that only those who do not wish to transfer or move will find placements. In other words, no layoffs will occur as a result of the closures.

Speaking to the issue of jail closings, I would be remiss if I did not, as the member for Cambridge, discuss with you some of the concerns regarding a jail opening. I'm speaking, of course, of Churchill House, located on the former Grandview School property in the city of Cambridge.

When the then minister, John Smith, announced the closing of Grandview as a juvenile institution, he announced that Churchill House, a maximum security unit, would be used, and I quote his words, "as a backup detention centre." It is in fact about to become a full-scale maximum security institution and I feel it only proper to tell you, Mr. Minister, that the people of Cambridge do not like that idea at all. In fact, they feel betrayed. No one is able to recall when a change in policy was brought to their attention or, for that matter, discussed with the members of city council. The first indication that such a move was to take place was, I am told, on the very day you made the announcement to close the Kitchener jail, and they look upon this as a breach of faith by your ministry.

On Wednesday, July 6 of this year, I raised a question with the then acting minister, Solicitor General John MacBeth, as to the intentions of the ministry regarding Churchill House and Grandview School. I was informed that he had no knowledge of the matter and that he would get back to me. On Thursday, July 8, 1977, Mr. MacBeth refused to rule out total conversion of Grandview School for the use as an adult detention centre. On a



supplementary question, I requested that if further conversion were to take place, that he would first consult with the council of the city of Cambridge. This he also refused to do and answered in the following manner: "I don't think I can bind the hands of any future minister for certain, although we will keep the request in mind and do our best."

The only question now, Mr. Minister, is who failed to keep the matter in mind—Mr. MacBeth or yourself? Surely if such a drastic policy change were to take place, the first people to be consulted would be the city council. Unfortunately, this was not the case and I can only suggest to you, Mr. Minister, that somewhere in your ministry there is a breakdown of communication. As a result of this, we now find that the mayor, the council and the citizens of Cambridge are outraged and rightly so.

Had the matter been raised with council prior to your announcement, had your ministry taken the time to make the citizens fully aware of the safeguards you intend to implement, perhaps then the repercussions that are now taking place would not have occurred. Instead, you charged blindly ahead with a program that no one but the ministry was aware of. Be it your program or not, you are the minister responsible for its implementation and the only one who at the moment must be held responsible.

Another matter of concern in our community is the building of the 20-foot high wall around the proposed complex. I can only guess that your reasoning is that this would make the whole proposal more acceptable in terms of safety. But here again there was no consultation. Here again the decision was made without anyone being aware of it.

The city council and in particular the mayor would like to know who it was that requested a 20-foot wall to be built around Churchill House. The reasoning behind such a question has merit. Surely it is bad enough to suddenly realize that you are putting a maximum security institution right in the middle of a highly populated city. This in itself creates anxiety among the citizens. But then to emphasize the fact by building a 20-foot wall around the complex—imagine then the concerns and anxieties that are raised. As I mentioned earlier, a little consultation, a little public relations, and you could have possibly have overcome these fears.

While on the subject of the Grandview property, perhaps you can inform us as to what plans you may have for the other buildings and land which remain unused. My reasons for asking such a question should be obvious for, again referring to the orig-

inal statement by John Smith, "Grandview School will then be upgraded and altered by an inmate working group for eventual full use as an adult training centre for young men." I for one found that statement to be rather ridiculous, in that major renovations had already taken place at Grandview to convert it to a co-educational juvenile institution.

For example, renovations to the building other than Churchill House were in the neighbourhood of \$100,000. This included renovations to the washroom areas, showers, living quarters, lounges and entrance ways. Approximately two years before closure as a juvenile institution, a swimming pool was installed at a cost of \$35,000 to \$45,000 to the taxpayer—a pool which, I might add, has seldom if ever been used. As the institution was to become a co-educational juvenile facility, another \$100,000 to \$250,000 was spent by the ministry to make the necessary alterations for this purpose. In addition, the arena and lounge area were also updated and improved and although I do not have figures on this, I am told that the cost was also substantial. Then the place was closed out as a juvenile facility.

My question to you, Mr. Minister, is: After having spent all of that money, taxpayers' money, what does your staff intend to do with all of those remaining facilities? A request by the municipality to utilize the arena and pool was turned down. There are, in addition to Churchill House, a number of other buildings on the property which now stand empty and which have recently been renovated at great cost to the taxpayer. Our main concern and our question is this: Do you intend to expand the remaining facilities at Grandview into an adult detention centre? If not, are you going to follow through and convert it into an adult training centre for young men? Failing both of these, just what are the intentions of your ministry with regard to the remaining facilities on the Grandview property?

Another thing that I might raise is that you're talking about transfer of staff. When it was closed out as a juvenile institution the announcement said that 43 of the staff who were presently at Grandview would be kept on and would be part of the jail staff. Now you are transferring an additional 32 people from the Kitchener jail.

I'd like to know if you are telling me that we now are going to have 75 employees to look after a building that holds 62 inmates. If not, what do you plan to do with the people who are already in that institution,

if you intend to transfer the full complement of 32 employees from the Kiltchener jail?

I'd like to get into the area of the program known as community service orders. Here we are a little bit concerned as to how the program is to be implemented. The program, of course, is not new. Perhaps it is to Ontario, but certainly it is not new to society, having been established in other jurisdictions such as Britain and Saskatchewan for a number of years. In fact to be honest, the program has been in effect for approximately two years in Peterborough under the direction, as I understand it, of Judges Collins and Batten. Needless to say, it has been carried out without government direction and was a result of the lack of government initiative in this area of correctional services.

Although we support the concept of community service orders, or make-work projects, we find it necessary to raise several questions as they relate to the program. First of all, are you planning to use placement and probation officers in the overall assessment as to where these people should be placed? My reason for asking this is because although a judge may rule that a person should work off his or her sentence in a community, it is left to the community to find appropriate work for that person. By utilizing the services of a probation person, the type of work the person is most suited for could readily be assessed. What happens, for example, if a person is assigned to do a certain type of work and is, for reasons not known or stated, unable to carry out the job to which he or she has been sentenced? Is the offender then charged with a breach of probation, a charge which could very well end in a return to jail?

Who is it who determines that the work to be performed by these persons could not be considered, under other circumstances, a job for which remuneration should not be paid? In other words, are we to guarantee that work performed through community service orders would not be work normally carried out by a hired person within the community? I for one would be appalled to think that this ministry was using this program to justify the financial cutbacks to municipalities, providing persons to do the jobs of those who may be laid off as a result of such cutbacks. What is that you are actually planning in the direction of the work orders?

As mentioned earlier, we favour the concept of community service orders, but only if carefully thought out and implemented properly. We are well aware that

the savings to the taxpayer could run into the millions of dollars, given that it costs approximately \$15,000 a year to house an inmate in an institution while supervision of a person on a community service order is around \$875 annually.

It is our belief that the program will benefit both society and the offender if carried out in a proper manner. On the other hand, we are a little concerned regarding the announcement of the establishment of inmate work gangs who will carry out work in various communities. Certainly we see no problem in inmates working, for we realize that in many cases it is a form of rehabilitation.

The situation in Guelph, for example, is one in which we are in total agreement. Here the inmates, as you are well aware, are allowed to go out to work, belong to a union, earn their own keep and learn that the honest work does, in fact, have its rewards. If, on the other hand, the intention is to provide the type of work which is looked upon as an additional form of punishment, then the whole program could very well backfire and destroy the very purpose for which it was created. Perhaps, Mr. Minister, you could expand further on just what it is you have in mind for these work gangs.

Again we must raise our concern that work carried out by these persons should not, in fact, be work that could very well become a normal job within a community. We are also concerned that this type of program could very well create a backlash in areas of high unemployment. Here again we caution you to use your good judgement as to where and how these work groups are to be used.

I would like now to go into the areas of probation and parole which I don't believe Mr. Bradley touched upon. If you are going to have fewer people in jail and more out on work orders, do you plan to hire more probation officers? The reason I ask this question is because at the moment, even though your briefing book indicates that the normal case load for probation officers is running somewhere around 90, there are areas within the province of Ontario—and I will go into that a little bit later—where the case load is anywhere from 130 to 135 persons. If you are going to have people out on work orders, surely this case load is already too high. I would like to know if you are going to take on more probation officers.

Another problem with probation officers of which I have learned from having talked to some of them is that they feel they are being encouraged somehow or other to become control agents rather than parole officers. Many of them have the sense that they should use all of the legal sanctions available to them to have some of the people under their jurisdictions put back into jail. As far as I am concerned this induces low morale in probation people, given the people that they have to handle. I would like your feelings on how this could be turned around so that the probation officers we have are able to carry out their work in a manner they feel is proper.

Getting back to case loads, I will give you an example of an office that I am referring to. The Mississauga office doesn't even have an office, to be honest. One day a week, I believe it is, they use an office in the courthouse. Apparently they are getting booted out of that office by whoever it is who made that decision, and the probation office is going to be moved to Brampton. You have a situation where, in a community of approximately 222,000 people—and it's a community that is growing by approximately 40 per cent per year—you will have no probation office as such. The co-ordinator there now, for example, carries a case load of 101 persons. There is one probation officer working out of that office who has a case load of 156. The average in the Mississauga area is 130 to 135 cases per probation officer.

The probation people working in that area have been trying for the last two or three years to find themselves an office through either your own ministry or the Ministry of Government Services. They have been unable to do so.

One of the difficulties you are going to find, if the people do have to go to Brampton, is that there is very little if any public transportation that goes up into that area out of Mississauga. The people then will be receiving assembly-line care. The probation officers will be receiving unfair criticism, not only from the people with whom they work, but also from the general public.

I don't think this is a situation that should be allowed to continue, Mr. Minister. I would ask you to take a very serious look at the situation in Mississauga and in other areas where this kind of problem has developed over the years.

Again, I don't blame you. I realize that you are new to the ministry and that it is probably something that has been happening for some time. But I would like to make

you aware of it and I would like you to take a good close look at it.

I also would like to find out if you are giving any consideration to the establishment of probation hostels, which is a program that we feel would be beneficial to Correctional Services programming. I would like to get some indication as to what kinds of community programming, other than community service orders, you have in mind for the expansion of your ministry within the various communities.

There are several other questions I would like to put to you at this time. Perhaps you can comment on them: I would like to know what progress is being made with the negotiations being held between your ministry and the federal government with regard to Bill C-51 and your views on that.

I would also like your comments on the advisory report on female offenders which was published early in 1977, a report which put forward two proposals, the first one being that the women's prison in Kingston be closed, that regional institutions be built and that there be an interchange of services or services on a buy-back basis; the second proposal being that the Kingston women's prison be closed, the province becoming responsible for all women offenders and that the federal government would redefine the method of payment.

[11:00]

I'd also like some comments on your feelings as to the implications if the 16- and 18-year-olds were taken out of Correctional Services and put under ComSoc. Maybe I could have some information too on the activities between deputy ministers of the various provinces and the meetings they're conducting regarding correctional services.

I'd like to thank you again, Mr. Minister, for providing us with the briefing material. I think it was excellent. I'd like to thank your staff also for having given us whatever information we asked for yesterday. We felt we were quite prepared on our own and didn't want to take up too much of their time but they were extremely helpful on the questions we did have. We'll be discussing other things as we go through the vote.

**Mr. Chairman:** Thank you, Mr. Davidson. I wonder if the minister would like to reply to Mr. Bradley's and Mr. Davidson's opening remarks.

**Hon. Mr. Drea:** Perhaps I can deal with the situation at the Don Jail. That's a very specific problem that seems to titillate the whole world. Then I'll come back and we'll discuss the situation at Cambridge. By the way, your community is hardly outraged, Mr.



Davidson. Your mayor and the administrator were with me until about 9 o'clock last night. They stuck me for the dinner bill.

**Mr. Davidson:** Is that how you pacified them?

**Hon. Mr. Drea:** No. Oh no, no.

We'll come back and discuss the Cambridge situation. Both of these situations are very specific and I don't think they'll carry over into other aspects of the vote. Some of these others will virtually carry on all the way through.

First, with regard to the Don Jail. It is my firm conviction that if the old Don Jail can be used as a jail on the morning of January 1, 1978, the courts will put 252 inmates in there. The simple fact of the matter is that on December 31 of this year, the old Don Jail is going to cease to be a jail. I think it only fair to point out to the taxpayers that there is no heating system in the old Don Jail. The reason for that is when Metro built what's now known as the Toronto jail, or the new Don Jail, which will stay, Metropolitan Toronto was so convinced that the Don would be gone in a year or two that they stripped out the old boilers and said they could temporarily buy heat from the steam plant at the Riverdale Hospital. The Don has more lives but I am going to end the last life. I think everybody can understand why.

First of all, in terms of the ultimate destruction of the Don Jail, I am not the person to talk to. As of the evening of December 31, my ministry will be out of the Don forever. It reverts to the Ministry of Government Services. As you know, I'm just a tenant. It will be up to my friend, George McCague. I can tell you George shares my feelings exactly.

The mayor of the city of Toronto met with me yesterday and asked me if I would consider not pushing Mr. McCague into a winter demolition, so that a feasibility study might be done as to what possible use there could be for the old Don Jail. I think, as a matter of fact, your caucus asked the same question. I think in fairness to the opposition caucus, they spelled out very, very carefully in the letter that they considered the whole place very repugnant, but they would wait for a couple of months or so—provided there was a guarantee it would not be used as a jail.

I informed the mayor of the city of Toronto yesterday—presumably he has gone back to Mr. McCague—there were certain terms and conditions. The first was that I am not going to pay for any heat, nor have I any authority to pay for any heat, after December 31. Actually, in terms of the pipes

freezing, all the pipes in the premises would have to be replaced if it was to be used for anything else anyway. So whether they're frozen and burst pipes or just rotten useful pipes is of academic interest.

There is a rodent problem in the area. Those drains go all the way down into the banks of the Don River. They're very, very old. They're not the type of drain that's in Riverdale Hospital or in the new Don Jail. I pointed out to the mayor that were that building to remain standing for any substantial amount of time, I would hope the city would put in a daily rat control program.

Over the years, vermin have got into the walls. As I understand it now, there is a thrice weekly spraying program done by us to keep that under control. I pointed out to him even if the heat goes off, if the vermin control program ceases suddenly the vermin will increase at an alarming rate. This has repercussions not just for the demolition crew, but for the houses in that neighbourhood. Many of the residents are very, very concerned about those two factors. Though they want the place down, other demolitions in the past in that particular area, in proximity to the Don River, have resulted in the problem of rodents fleeing the demolition and so forth.

All of the inside of the building—no matter what anybody decides—is a jail. The metal doors, the grates, the grilles, the boiler plate around the death cells, the gallows—that all belongs to me. Those must start going out. If those doors aren't out of there, somebody three months from now will want to reopen the place.

Furthermore, there was to be an agreement with the city that in no way, shape or form would they impede certain events that are going to take place on December 31; the most notable being that the gallows—including the trap, the hook and all the other things—is going to be out of there that afternoon. I am prepared to tell the Minister of Government Services—because technically it's his property—where it is going, but I'm not going to tell anybody else, and I can guarantee you by midnight of that night, all of that gallows will be destroyed. I'm not going to get into the souvenir business. It was the last gallows to be used in Canada and there maybe a tendency to try to make it a collector's item.

Finally, the building is a fire trap. The city, if they want to leave it standing for even a study for two or three months is going to have to provide security. We operated it



seven days a week, 24 hours a day. The top three floors are wooden floors with one wooden staircase. There is no sprinkler system in there. They are going to have to put security people in there otherwise a careless mistake such as a workman's torch or some hazard—you never know in an old place like that. A fire would not go through the walls, but I don't think the chronic care patients at Riverdale Hospital should be treated to a major fire.

If the city was prepared to do those things and to pay the bill, then I told the mayor of the city of Toronto it will have to be the first bill the taxpayers of the city of Toronto will pay. It will take \$4 million at least to bring that institution up to a minimal public use standard. I'm talking about the fact that there would have to be a sprinkler system put in all the way through. Every pipe would have to be replaced. Every piece of electrical wire would have to be replaced. The drains would have to be replaced. The floors would probably have to be covered with steel or some other type of fireproof material.

There would probably have to be new staircases built in there. It is one thing to be able to get inmates who are subject to discipline down a narrow flight of stairs if anything happens; it is another situation when you have a middle-aged couple. They would have the gravest difficulty getting out of that place if anything happened. Finally, it will cost at least \$1 million a year to operate—that is by the city of Toronto.

People are under the impression that the whole area would be levelled. The Toronto jail, or the new part, is entirely self contained—it has its own furnace, air conditioning and what have you and is a normal institution. That is going to remain. Furthermore, to just partially answer another one of your questions, it will not have any short-term sentence prisoners, because its entire capacity will be used for remand prisoners who have been denied bail. The obvious reason is that most of their offences must be tried in either county or high court and that's downtown. It would be ludicrous to start transferring people. So the Toronto jail, the new part, will be entirely a remand centre.

I also pointed out to the city that the old governor's house is now a community resource centre, or a jail without bars. That's a very, very successful program there. That's going to continue, so we are not going to turn that—nor could we, because somebody else uses it—into an historical exhibit.

I think I have told the city my feelings. I still regard the place as repugnant. At a

time when human services are being curtailed, when human services that might have come in aren't coming in, I really don't think that the taxpayer is going to look very kindly upon someone who wants to preserve that piece of antiquity.

**Mr. Bradley:** Has there been any initial reaction to your decision?

**Hon. Mr. Drea:** The mayor thought there would be. You see, the city owns Riverdale hospital. Presumably the city would just tell Riverdale Hospital to put heat into the place. I think my friend, the Minister of Health (Mr. Timbrell), may have some concerns because while the city of Toronto may have an interest in Riverdale Hospital, Mr. Timbrell pays all the bills. The city works committee were going to go and look at it and they were to go back and see Mr. McCague.

Mr. McCague, as you know, has called for demolition tenders. That doesn't mean that the place is going to go automatically, no matter what happens, on January 1. There are a large number of demolition contractors, large or small, on his pre-qualified list. They have to be informed that this job is in the offing and would they like to get the plans? A great many of those demolition contractors are relatively small. They have done demolitions for the province, but sometimes it is just one or two houses, or a small OPP detachment building, that type of thing, but nonetheless they are entitled to ask for the plans.

When the demolition contractors who are serious answer they are going to need at least four to five weeks to study that place, because for demolition purposes it is not going to be a very easy job. It's very well built.

I also pointed out to the mayor that if the city wanted to consider saving the façade—the stonework on the outside, the design—I didn't think there would be any difficulty. Mr. McCague has confirmed this. What we would be prepared to do as part of the demolition, would be to take those stones down, number them, and transport them to wherever the city of Toronto wants to rebuild that façade, if that is their idea. The mayor said that might be one of the alternatives they wanted to use. In any event, that's up to them.

All the trappings on the inside such as gargoyles et cetera which are of historic or architectural value, we will take out for the demolition contractor no matter what happens to the Don, but we will give them back to the historical society or whoever wants them.

When I say that the inside belongs to me, I am talking about the cell doors, the grilles, the grates, the keys, the locks, the death

cells and the gallows. Those cell doors and so forth will be taken to Millbrook, where we have a metal factory run by inmates. They will be recycled eventually. They will be stored there until there's a new institution being built. They will then be cut or trimmed to size and this will save a fair amount of money. The gallows will be destroyed and I am not interested in all the historians who want to find out where and how, but I can guarantee on the morning of New Year's Day it will be gone. Mr. McCague will know where it was destroyed because technically that morning it becomes his property. Mr. McCague shares my views on what is to be done.

[11:15]

It is now up to the city. You have to be blunt with the taxpayers. You have to tell them the costs that are involved and they have to weigh them. At a time when certain very necessary human services are being curtailed and others are not coming on stream, that amount of money and the costs of operation will be of concern to the taxpayers. It is up to the city council.

**Mr. Williams:** Mr. Minister, I just want this to be entirely clear. Was the purpose of the mayor's visit to your office for an exploratory discussion on possible alternative uses of the facility in areas that would be within municipal jurisdiction, or did he have a specific proposal for an alternative use of the facility?

**Hon. Mr. Drea:** In fairness to him, all he wanted was some time to see if there might be an alternative use. They haven't got any.

I know somebody somewhere said today that I gave the Don a stay of execution. That's not true. It would have taken me a month or two to get all that steelwork out of there and get it transported to Millbrook. It would have taken the demolition people that long to make their bid, and I doubt very much they would want to start in the winter-time on a job of that magnitude anyway.

**Mr. Williams:** Could I get further clarification? You indicated five difficulties involved in restoring the facility for an alternative use.

**Hon. Mr. Drea:** These difficulties are just to have it standing there for three or four months. That's for nothing.

**Mr. Williams:** These are the conditions that would have to be complied with in order to keep the building operative for a temporary period?

**Hon. Mr. Drea:** No, it wouldn't be operative. I want to make this clear. We will be out of there.

**Mr. Williams:** Not as a jail, I realize that.

**Hon. Mr. Drea:** Not as anything, because the connection between the old Don Jail and the one that is going to stay will be sealed off by December 31. There will be a building that just happens to be next to a jail.

**Mr. Williams:** That's why I couldn't understand your saying "these are the five conditions," as though if these conditions were met, there would be a basis on which an alternative use would be considered. I am sure you didn't mean that. But when I hear the term "conditions," I understand that to mean that if certain conditions are fulfilled, somebody will be permitted to do something.

**Hon. Mr. Drea:** No, the "certain conditions" are that the demolition will not proceed at the earliest possible moment. The truth of the matter is that nobody has an alternative use for it. I suppose they want to look at the load-bearing walls and what can be done. They can't do that very well as long as there are inmates in there and equipment is being transferred back and forth.

I would be very remiss in my duties to the taxpayers not to inform the city of Toronto that if they intend to heat it, they are going to pay for it. I have no authority to do it. The Legislature and the public accounts committee would have every right to come after me; I have no authority to heat it. They didn't know this. They presumed it had its own heating plant.

The question of the rodent and vermin control is very important to the neighbourhood. Now, we are not going to take it down right away. We would have been prepared to do that type of thing while waiting for the wrecker to get in there. However, if they want it held open while they study it, they have to accept that.

They have to accept the cost of security. I can't have my correctional officers walking around that building at night to make sure that somebody didn't get in the back, or that somebody hasn't left a cigarette, or what have you.

Also, they are going to have to buy it, you know. They sold it. They wanted no part of it. This isn't like Simcoe or Kitchener or other places where they held on. Metro said you take it; you're the government of Ontario.

I want to make it very clear that they can study all they want, but it is going to cost them. I think they should go back to their council and their taxpayers and decide if they want to invest that much on a study.

**Mr. Williams:** This meeting with the mayor, then, has in no way altered or qualified or modified your position on this matter since you made the announcement?

**Hon. Mr. Drea:** I will not have a good night's sleep until the Don Jail is completely levelled and the flower garden is started.

I'll tell you why, and I am not being facetious about it. That place has been condemned so many times; there have been so many closings "just around the corner." There have been bids to demolish, bids to preserve. There have been feasibility studies going back 25 or 30 years on what would be done with the Don Jail "when it is closed next year" and could it be saved?

As long as that place remains, I'm not going to have it as a jail. That was my commitment to the people of the province. I said it publicly. It's a commitment to the people of Metropolitan Toronto who want it closed, and I think all of society does.

I won't leave it standing there knowing full well that one of these days there will be a little bit of an overflow someplace and the courts will say, "For our convenience, because these people have to be tried downtown let them sleep over there for a night. It won't hurt the place." We'll all be dead and the flag will still be flying over it.

**Mr. Williams:** There is just one other point I have in dealing with the Don Jail. Reference was made at some length by the opposition critic to the historical aspects of the building. You may feel that you've answered that fully but he elaborated at some length on the person who had designed the building and some historical features—

**Hon. Mr. Drea:** I don't think it's really a monument.

**Mr. Williams:** I don't know whether you had specifically dealt with those. Perhaps you should clarify that question.

**Hon. Mr. Drea:** No, I haven't. It has some history, there is no question about it. It's been around a long time and I'm sure that the architect meant well but he was a total failure at building a jail. It's been deplorable since the day it opened.

As a matter of record, it had to be built twice. The first time they built it, it caught fire and they had to rebuild. When the city council subsequently went to the formal opening, or the prededication ceremonies, the impact of the Don was heavily upon them because they carried on quite a spirited meeting in more ways than one. They were promptly criticized virtually all over Ontario.

If they want to preserve some stones or gargoyles, that's their affair, but I really don't want to perpetuate it. It's not my decision anyway. I just don't want to perpetuate it, no matter how beautiful, how historical, how nice an institution it may be.

I will tell you, not one inmate, former inmate, graduate, correctional officer or what have you who ever worked there has written or communicated with me in any way, shape or form to say it should be preserved. They are the people who had to live there. They are the people who had to work there. They are the people most familiar with it.

It's Mr. McCague's really, and it will be his on January 1. He will have to decide how to proceed.

**Mr. Williams:** I have one last question. I accept your observations with regard to its very limited historical value—I accept that. However, what if the municipal government felt that the building, because of its antiquity, had historical value as perceived under their historical sites legislation? I presume in any event that would have no application to this particular facility, because it is a provincial institution outside the terms of any municipal controls. But what if the city thought it was so important to them from an historical point of view that they endeavoured to apply that legislation?

**Hon. Mr. Drea:** I know there are certain options open to the municipality; it's a grey area in regard to who actually has control. But I don't think that it would be proper for me to comment on it. Really, it's Mr. McCague's building and his ministry has to face those difficulties.

It has never been designated by the Ontario Heritage Foundation of Culture and Recreation. They never got around to doing that. I think they can prevent demolition for 60 days by calling it an historical site; I know they've used that in the past to control demolition permits. I don't know if they use that any more since the Legislature gave the city of Toronto the right to control demolition in a proper manner. It's really Mr. McCague's in terms of all of that. I just want to make sure that we are out and the building will never function again as a jail.

The other thing I drew to the mayor's attention, by the way, is that next door will be a remand centre and there will be other uses for the land. If they are looking for an alternative use for the structure, they have to take into account that they're going to have to pay a pretty heavy price on security. You can't have endless comings and goings all night long around a maximum security remand centre. That's something the city will have to look at. Certainly our people will have to take precautions and that may preclude the entrance and egress of visitors who might want to go into that other section. This is a difficulty on that particular piece of property.



Now, if we can go to Cambridge. First of all, one of the difficulties at the time Mr. Smith was trying to make up his mind—and I think you have to bear this in mind—was that Mr. Smith also had, or the ministry had, control of juveniles.

Mr. Davidson: Right.

Hon. Mr. Drea: Okay. The difficulty at the entire Cambridge site is that the province was then in the process of making up its mind in another sector of government, the Provincial Secretariat for Social Development, as to what was going to happen to the juvenile program. Were they going to remain with Correctional Services or were they going to go somewhere else?

I know that everybody now accepts that they've gone somewhere else. Quite frankly, it's the right decision. But at that time, no matter how much it appeared that they were going, the final decision still had to be made. Therefore Mr. Smith's hands were tied at that time. I don't know what Mr. MacBeth discussed with the council, but on the very day that I was appointed, the entire council was taken through what was then known as the Kitchener jail annex.

There are 32 cells in there, which is a polite way of saying that's the maximum security area. While it had that wire fence behind it, there was some concern because of the openness of the land. There is a copse of trees right behind it, a very pretty wood, but coming right up to a very high wire fence which is angled across the top so theoretically you can't throw anything in. Even if we were to use it as the Kitchener jail annex only when we brought over cell prisoners from the Kitchener jail, they were concerned about precautions to be taken for the public.

At that time there were two alternatives. The first one was to never let them out for exercise, which you cannot do because the bulk of them would be remand. There are no sentenced prisoners in those cells. The second alternative was to build a wall. You retain the wire fence because it's there, but you also double the security because of the layout of the land. It's a very large tract of land and there are other buildings, mostly unused, on it.

The council went through there. Subsequently, I was in the city of Cambridge and I spelled out rather copiously the fact that it was a maximum security jail. It had been built by inmate labour. As a matter of fact, the cell doors are recycled from Burwash. Everybody seemed to accept it.

If memory serves me correctly, you approached me at that time. You expressed some very valid concerns about the outside security. I gave you a commitment that before one cell prisoner was transferred from Kitchener to Cambridge, there would be a wall around the place. But I felt that the building was totally secure. As a matter of fact, the building itself is much more secure than the Kitchener jail but nonetheless I did feel the people there had that right.

When you asked for the commitment, since it was communicated publicly, I presumed that the question had gone to the people in Cambridge—because I was asked by my ministry a couple of days later if I was sure I knew what I was doing in building that wall. I may be a little naive but I assume when the member for an area asks such a thing, albeit informally, the public knows exactly what is happening. Nonetheless, I gave you the commitment and it became public.

[11:30]

[Let's consider it another way. I think this is a matter of semantics because I haven't got any thought of it, but one of the concerns is: Would that site, because of its vast amount of land, be turned into a regional detention centre that would take in the entire region of Waterloo, Wellington county and the city jail in Brantford, thereby becoming the jail complex of central Ontario?

The answer to that is no. It will be a detention centre as much as it is a jail, but it is for the region of Waterloo and the region of Waterloo alone, just as the Kitchener jail was for the old county of Waterloo, period. There will be certain developments taking place in the next two or three weeks by which certain things will happen in the adjacent areas, whereby it will become very, very plain that that is all it can be used for. As a matter of fact eventually, because of those developments, it may be that it may even become a subordinate place, that it will never even be filled, that there will be another facility that will have a very, very large capacity close by.

In regard to the other thing you brought up, I met with the mayor and Mr. Collins, the administrator, last night at some length. Their concern really isn't the jail; their concern is the rest of the land. That isn't my land. As you know, that is still Government Services'.

I have told them that I think that they should enter into negotiations with Mr. McCague—and they have my full support



and I am willing to go with them for a number of reasons. One, you have the question of where the expressway is going; that is of concern to them. Two, there is no secret about the fact that the region of Waterloo's Syd Brown wants to build a new police station in that particular area and there have been some negotiations. I don't know why they were ever stopped, because they weren't with us. But in any event, I think that building his police station there would be an excellent idea for two reasons: First it is no intrusion on the neighbourhood; second, he would not have to build holding cells, which would reduce the cost to the region enormously, because the institution would be just 10 or 15 yards away.

There is some talk among the Cambridge people, although they are not unanimous in this, that maybe they would want to remove the provincial court criminal division from downtown Cambridge or wherever it is now, and that that might be a place for it in the future. As far as I am concerned, I have no further use for any of the land other than 10 or 15 yards around that wall.

We have taken the same position as we did with Vanier. The town of Brampton thought we would be unalterably opposed to any subdivisions going around the Vanier Centre and so forth and they zoned the area industrial so nothing could happen. Well, that to me is a waste of the taxpayers' money and of land, making a place like that sterile. But compatible development—that means you don't stick the poor guy with a 10-foot lot right back into the wall, or municipal buildings and so forth—I am in favour of, and I think the faster the province dismantles the site, the better.

An adult training centre doesn't lend itself because in talking about an adult training centre you're really talking about a minimum security reformatory, and if you were to put one of those in the area you would be on your way to a major complex. It's just not in the cards because Guelph is, what, 10 or 12 miles away?

**Mr. Davidson:** Twelve miles.

**Hon. Mr. Drea:** Guelph is a training centre—maybe it's called a reformatory, but there is training there. It's got lots of land and can be much more easily adapted so there will be nothing more than that building there and the wall.

Just to come into some of the other aspects: First of all, the inmates who are coming in there will not be using the swimming pool or anything else. Those facilities are all way beyond that building. The whole com-

plex was a juvenile training area and obviously there were many more amenities provided, and rightfully so. This is going to be a straight remand centre. They won't even be sentenced prisoners there, so obviously they are not going to use those facilities.

I understand that various community groups such as the mentally retarded used the ice arena last winter and the swimming pool this summer and they are continuing to do so, and I think they should. It's a community resource and we don't want it. I don't see why the Cambridge parks or regional parks or whoever wants to do it just does not enter into some kind of agreement with Government Services for all of this stuff, because it is totally redundant to me.

I know from the Minister of Community and Social Services (Mr. Norton) it is totally redundant. He has no plans for it whatsoever because he would be in the bind of having juvenile and adult prisoners in the same area and it just doesn't work.

As I say, last night I discussed it with the mayor and I'll be going down there to discuss something more with him. I have no further use for it and no future minister will have any further use for it, other than that one piece of land we now occupy. The more that land—or even the arena—can be used for the community—or by the police, or the courts—the better. Fine, by all means let them do it, because that place still won't intrude that much.

One other question you asked. At the time the two were merged the 43 people, or however many you said, at that place came over to us rather than the juvenile end. The union at that time made one bargaining unit, Kitchener jail and Kitchener jail annex; they are all lumped into one. Obviously we are not going to be able to take all of them. What is going to happen is the ones who go there will do so on a straight seniority basis, if they want to go there. But there is lots of alternative employment at Guelph. Quite frankly for some of them Guelph is closer than going there. There are all kinds of alternative employment for the ones who don't want to go. But for purposes of the collective agreement, the jail and the jail annex were made one bargaining unit at the time. That was included and everybody in there is aware of it.

**Mr. Davidson:** Mr. Minister, your analysis of the Grandview situation as you see it is correct. The comments that were made in my opening statement—your having talked to the mayor last night and my having talked to

him either yesterday morning or Monday evening, I am not sure which—

**Hon. Mr. Drea:** I talked to him on Friday, as you know.

**Mr. Davidson:** I know you spoke to him on Friday, but those comments come directly from him. I phoned him and asked him if he would like me to raise anything during the estimates and they were questions that he asked me to raise, so I did so. I am pleased to hear that you did meet with him last Friday.

**Hon. Mr. Drea:** In all fairness to you and to him, until about noon yesterday I was not aware that he and Mr. Collins wanted to come to Toronto to discuss it. They made up their minds yesterday that they wanted to come here. I had told them on Friday, of course, that I would go up there to meet them, but I was handicapped by the fact we didn't know exactly when the estimates were going on.

They weren't playing both ends, certainly. I told them I would meet them at 4:30 p.m. and we continued until about 9 p.m. and we went over the entire situation.

**Mr. Davidson:** I am quite certain that you clarified the situation. In my mind you had already clarified it to me and I relayed that information to them. They still had those concerns and it is something I had to raise with you, that's all.

**Hon. Mr. Drea:** That's fine. I just want to set the record straight.

Now if we can come back to some of the points that were raised by Mr. Bradley, perhaps we can continue right through all the votes, because they do pertain to a great number of things. Just for a beginning I think maybe we should look at what we are doing right now.

First of all, until this point in time we have been an institution-oriented ministry. This ministry started to operate institutions in 1947 because the then-reformatories such as Monteith and so forth that were run by the federal government had been converted into prisoner of war camps. The county jails, which weren't ours at the time, were becoming very overcrowded and the government of Canada, notwithstanding the fact that the war had been over for a year and a half, wasn't in any hurry to send back the prisoners of war.

By the same token, the government of Canada was prepared to sell us or let us take over a goodly number of abandoned air force and army bases such as Rideau and Burtch reformatory.

Throughout that period of time we had always been institution-oriented. There is a

saying in the ministry which probably has truth in it, although it is not entirely accurate, that the probation people do 90 per cent of the work with 10 per cent of the resources. It is not quite that bad, but it is pretty close. We are now faced with the proposition that we either go on building institutions, because you can't have overcrowding, or we try to see what we can do with existing institutions.

The community service order is to deal with the one in five who are in our system every day, of the 5,000 who, everybody agrees, as a general rule of thumb, need not be in jail, because the primary function of jail or any place else is the protection of the public. That is its primary function. But these are petty offenders, revolving door offenders, the 10- and 15-day sentence people. The difficulty is the local jail has to be built to the lowest common denominator. You can't have a local jail that is not a maximum security building, otherwise it is not a local jail.

The jail end of the system is the one area over which there is no control. The federal penitentiaries know today whom they have in Millhaven. If they are crowded and cannot cope they will postpone that admission. In our correctional centres we know whom we are getting today. With the jail you don't know whom you are getting.

I don't think I ever used the analogy that building a jail cell was more expensive than building a luxury hotel suite—I think that was one of my predecessors. What I said is that right now it costs you three times as much to build a local jail per inmate as it does a fully equipped hospital per bed. That is an appalling cost. Even if you cut down, no matter what you did you are still going to come in at at least double—because it has to be made maximum security.

Community work orders will be able to divert a sizable number of petty offenders from the local jail. In other words, it won't have the 10- or 15- day sentence people any more, it will just be a remand centre.

I think that's what jail today really should be at the local level—a remand centre that you go to when you have been refused bail or if you can't meet bail and you are waiting for your trial. By the same token it is ludicrous to me that in institutions where you have been sentenced the attempts to motivate you consist almost entirely of letting you sit around. To me that is a very unreal world and the motivational procedure has to be that there is a real world. That is why I favour the work program.

The work program has been going on in the province for a good number of years. For

instance, the Simcoe county forest that you see on Highway 400 where the trees are pruned row on row—that has been done by inmate labour almost since the beginning. It is a very beneficial type of program.

Also there is a change in Bill C-51, or the Penitentiaries Act, which makes it imperative that we have work programs. That is the fact that there is no longer going to be statutory remission; now it is going to be earned remission. I don't know of any fairer way that you can earn remission than by what you can do. I don't believe in filling out a form. You may have a not too articulate inmate who is quite responsible, but by the time he fills out the form he doesn't look so and vice-versa. Under the work program, the better you produce and the more efficient you are, then obviously you have accepted responsibility and therefore you are a pretty good bet for the street much earlier than anticipated.

I think the public will accept that—the you have demonstrated responsibility. The public isn't that vindictive. What they really want is that you cut out doing what you have been doing. I think this is a very practical way because it has people in the real world—they're like all of us; they go to work every day and they go home. There is a difference, of course. They go to work every day but when they come home the place where they sleep is assigned to them—that is their loss of freedom.

We have had a remarkable amount of success in northern Ontario in bush camps. It has stopped the revolving door, particularly with native offenders in certain areas. I am not saying that they never come back, but it has stopped the monotonous frequency.

One of the difficulties is that we have had to abandon a lot of these things because of the very high cost of transporting people to and fro. When you build a camp you almost have to be certain that there is about 10 years of work within about a five or six mile radius. Otherwise what happens is that a couple of years down the road you start to cut down on your program because of the cost. You look at what the costs are—two shifts of correctional officers; one to take them out, one to bring them back. For instance, the camp north of Sault Ste. Marie—McCreight's Camp—has been closed. Camp Oliver has been closed. Camp Durham, just outside of Millbrook, was closed for those reasons.

We could have done much more in the Simcoe county forest in addition to Camp Hillsdale, but Camp Hendrie was also closed. We don't have a single forestry camp in northern Ontario which lends itself to that

type of thing. The difficulty was transporting them back and forth.

[11:45]

The reason I am so interested in the smaller unit is that the transportation cost isn't there. You can send them out on the road or into the forest, or what have you, in the same way as a small construction group building a road or hydro line would go. They take a bunk truck with them and sleep in it. You can send one correctional officer out with them and replace him every couple of days, so that you're not into this endless moving.

The reason I want to go into the southern United States is not so much that I'm enamoured of their system—although you'll notice that down there they've gone away from statutory remission, they're into earned remission—but just to look at the logistics of it for the taxpayer. How do you get the drinking water? What do you do on a rainy day? By that I mean when they can't work; what do they do? They're away from everybody; what happens then? How do they get visitors? Do you bring them back every weekend? How do they get food? If you're going to get into the business of transporting food out to them every day, you're into the same costing. All of this.

The reason I am so interested in this is that we have the first group of inmates who ever received an award from the American Psychiatric Association—for their work at the Brockville Psychiatric Hospital. It takes them 90 minutes to get to work every day, 90 minutes to go back home, and then they do their eight hours back in the geriatric ward.

We were going to cancel that program a year ago because of the cost of transportation. That has been a tremendously successful program, not only in terms of the additional help that has been given to the geriatric person who has grown old in a mental hospital, but it's also been a great motivational factor for the inmates who have been involved. Here we were. It wasn't the program that counted any more, it wasn't the benefits of the program any more, it was the nickels and dimes on the transportation. So we want to get away from that, because it makes us much more flexible.

The other problem is that when you build a bush camp or something, you're into the endless thing of having another institution. You're always repairing it, or you're maintaining it, or you're staffing it. You're doing all of this. If the program becomes secondary, the institution gets to be primary. I think when we have portable units and so forth, that we will want to get away from this type of operation.



A question has been raised about the work. Let's look at it. First of all, the community work order is an alternative to going to jail. They will never get inside. Judge Clendenning in Belleville was doing the same thing. The difficulty at that time was that the bench was terrified that there might be an appeal against that type of sentence—that it would invalidate the whole sentence and the person would have gotten off scot-free just because the bench dared to try and provide an alternative.

Oddly enough, there was an appeal and the Supreme Court of Ontario came back on one of those sentences and said they thought it was very valid. That ended the argument for those people, but there were still a lot on the bench who thought there should be a significant change in law at the federal level. After all, it was the Criminal Code.

Shortly after Mr. McMurtry and I went into it, Mr. Basford announced that he would change the Criminal Code—he hasn't done it yet—but just as a result of that announcement, all of a sudden the bench felt that their hands were clear and that they could go forward.

What we want to do is involve the community group, whether it's the John Howard Society or whether it's the local volunteer centre, or the mentally retarded, or so forth. They discover the tasks that they don't have volunteers for. I think that's beneficial because it involves the community. I want to be part of the community, because actually the community has become part of us. They are selecting the tasks. This is the work they feel should be done in the community, that can't be done either through a lack of manpower or through a lack of cash. They do the selection wherever possible. I think that is much better than the government deciding what task can be done free. I think you avoid the danger of getting into the situation whereby you are deciding whether it is gainful work or what have you.

Obviously it has to be supervised by a probation officer because there has to be a deterrent. Everybody is full of remorse in front of the judge saying, "Sir, I'll never do it again, just don't send me to jail." Then he gets out in the park on the first Saturday and he doesn't go back the second Saturday—and that's not fair.

With the probation officer having umbrella supervision he can take him back to court and say the man simply is not doing his sentence. Then, of course, he gets his original sentence since he has committed a breach of probation. That's a very significant deterrent. This isn't some easy matter

where you wink and you slip out of the net once again. Despite the fact that you are not going to jail, this is a substantial sentence and I think it will work. It has worked very well in Great Britain particularly.

**Mr. Bradley:** Are you not running into the fact, though—and I realize it's not within your ministry—that judges are still reluctant to do this? I give an example of somebody who kicked in a door that cost \$200 and the person gets fined \$200 instead of being ordered to do something else useful.

**Hon. Mr. Drea:** Yes, okay, then you're going into a different thing. You see, this community work order is really for not victimless crime but where there isn't an identifiable victim. It's public mischief, or obstructing police or drinking. You can't compensate anybody, because it's the community that's had to pay all the bills.

**Mr. Bradley:** What about restitution?

**Hon. Mr. Drea:** Restitution is much more sophisticated and much more difficult to enforce. There's no question about that. We've already got a very successful program on that under way in Ottawa, which has worked out very well. We're wanting to start it elsewhere. It is a much more intensive type of supervision because there has to be money repaid and the person has to work, et cetera.

I think that is the logical consequence when there is an identifiable victim, as in the case of the \$200 door; that \$200 is paid back while the person works in the community—I shouldn't say works in the community—while the person works and is gainfully employed. That avoids all the other costs to all the other ministries than if the person was jailed for 10 to 15 days, and besides it avoids the door owner having to go to small claims court and trying to get a judgement et cetera. I think that will be just as widespread and I think that will relieve a great deal of reluctance by the bench. Some of the reluctance is that where there isn't an identifiable victim, can they really have the community in the restitution end of it, not the particular victim.

There is no question now, with the federal Minister of Justice wanting it and saying that he's going to change the law, that's eradicated most of them. One of the other difficulties is there has to be a change, quite frankly, in the intermittent sentence where it's a mandatory sentence, which is usually 14 days for impaired driving. The courts were very progressive a decade or so ago and that came in because the object was to

keep you out there working so you and your family didn't become a burden on the community, but in the meantime you paid the penalty on weekends and so forth.

With the community work order, the intermittent sentence has really become kind of obsolete. On the question of the large number of intermittent sentences, there are particular problems, as Mr. Davidson knows, in the Waterloo region, because you had a jail in Kitchener with a capacity of 37 and 27 people were coming in every Friday night on intermittent sentences.

At Mimico now, I think, we have 250 coming in at 6 p.m. on Friday nights. You can't do anything for them except feed them. There's no way you can give them any counselling. You can't tell them to go here. Secondly, it's a tremendous burden upon the entire system, as you can imagine. You've got to find a place for them—double-bunk them, triple-bunk them, put them any place because they'll be out on Monday.

It causes friction with the people doing straight time in there, because these other people leave bright and early Monday morning and they'll be back next Friday night. Meantime, you're in the same situation.

I think the community work order will alleviate a lot of that. Intermittent sentences may be necessary, I don't know, but certainly not as the catch-all for anybody gainfully employed. Let's try to keep them employed.

**Mr. Davidson:** My concern with the community service order is the assessment of the type of work that the individual would do. It may very well be that a person is assigned to do something that he or she is unable to do. My concern there is that, given that fact, it may be misinterpreted that the person is unwilling to do the job and, therefore, would that be constituted as a breach of probation?

**Hon. Mr. Drea:** Remember, we don't decide what is a breach of probation. All we can do is bring the person before the court. The judge determines that, and there is no question that he can't send out a man with a cardiac condition to do snow shovelling or something.

There's no question that from time to time there's going to be a dispute somewhere along the line as to their ability to do so. The court decides the sentence, and all I'm saying is the probation officer has the right to bring the person back before the court for determination. It may very well be that the judge says, "You really shouldn't have been doing that job," and directs that he finds another one. I think this is the great benefit of having the community organizing the tasks—and I

like to use the word task rather than job, because job connotes pay, when in fact the people are not getting paid.

The wider the variety, the best you can accommodate. It would be very nice to have one program and say, "You show up at the park on Saturday," but remember you get some 60-year-old men and some 16-year-old kids. As long as it's wide open there's some space in there for something every individual can do that otherwise wouldn't have been done.

Then we come to the inmate work programs. We now have gainfully paid inmate work programs inside the walls and we also have the temporary absence program, where the inmate goes out to work every day and goes back in at night. He's paid, we bank the money and list the normal deductions and he pays board, OHIP, income tax and so on.

That's not going to stop. I think the temporary absence program in the province is probably the best thing that was ever done.

**Mr. Davidson:** Excellent.

**Hon. Mr. Drea:** It runs at about 98 per cent successful on the weekend passes to about 92 per cent successful on the longer-term ones. I don't think the percentages tell the real story, because we're processing an enormous number through. I'd much rather have 90 per cent success when you're processing 500 to 600 through than to have 100 per cent with six people. So that's going to remain.

Obviously things like the Guelph abattoir or the Guelph beef centre are going to remain. It would be very unfair in that situation to say that the inmate would not be paid, because he's competing in the open market, and besides we have a union agreement. I'm the only correctional minister anywhere in the world who's got a union agreement.

**Mr. Davidson:** I understand that and respect you for it, believe me.

**Hon. Mr. Drea:** Right. They also have TAP to go to the union meeting. So obviously they are going to have to be paid dollar for dollar, cent for cent, benefit for benefit the same as anybody else in the food and allied workers union at that job because the union and the companies set the pay rate.

**Mr. Davidson:** Can you give us a breakdown as to how their earnings are distributed?

**Hon. Mr. Drea:** It depends upon the individual and it's very difficult, because there are times that we know certain things and you can't make a hard and fast rule.

For instance, if we know a man is going to resettle himself at a far distance out of this province, he tells us that he just isn't

going back to that place because he doesn't want to come back to us, and he may have a job in Edmonton, we know that he probably won't get paid for two or three weeks. That's the usual custom. We would take much less off him for board and room than we would for somebody who's going back to resettle in Guelph.

The basic principles are there—the income tax, CPP, unemployment insurance, union dues, OHIP, and, where the family is on social assistance, some kind of a repayment to the Treasurer of Ontario, as there would be in any other case, and then there's what we put into what we call the forced savings. It really depends upon the person's individual circumstances and so forth. There's a rule of principle but you can't apply it to everybody because it would be very difficult and I think somewhat unfair. You might have a person who is going to have to buy, within three or four months after his employment, \$500 or \$600 worth of tools. I don't think it would make much sense to strip him of all his money, because we know darn well that here's a guy who has been in difficulty before and has certain temptations, usually about money. I'd much rather that we bank the money for him and say, "Here it is. You know you have to buy the tools." Okay, if he does, he does. If he doesn't, we didn't rig the deck on him. It's difficult to say this percentage or that percentage.

**Mr. Davidson:** I'm correct in assuming then that out of his earnings a certain percentage is allocated for the room and board as such, a certain percentage if he has a family is directed towards his family either directly or through the ministry.

**Hon. Mr. Drea:** There are some of them who are not on social assistance.

**Mr. Davidson:** Right, and a certain portion is also set aside for him or her when they leave.

**Hon. Mr. Drea:** I think the safest thing to say, and the most general, is that they get very little spending money.

**Mr. Davidson:** Right.

**Hon. Mr. Drea:** It's not disposable income. Where it is necessary we bank it in a trust account for them, they get interest on it and upon their release they get the money.

**Mr. Davidson:** I think that's excellent.

**Hon. Mr. Drea:** People ask what our formula is, but other than the general principle there can't be an absolute formula, because remember the temporary absence program—and the Guelph abattoir is really a

temporary absence program, whether you go outside the walls or you go to work there—is all decided on individual merit by individual superintendents. I think that is the great benefit of this program. The circumstances can be adjusted and made more flexible rather than having a hard and fast rule.

[12:00]

**Mr. Davidson:** Yes.

**Hon. Mr. Drea:** We have a mattress factory in Mimico and have replaced all the mattresses in our jails. They are not the polyurethane type that was in Stratford and these won't give off noxious fumes. That company does not have a union group but inmates are paid, dollar for dollar, cent for cent, what they would make on the outside in other operations of that company.

You were asking about places of high unemployment. Last year, for instance, in northwestern Ontario, inmates from the Thunder Bay Correctional Centre planted one million seedlings for the Ministry of Natural Resources. They were paid for it.

Prior to us getting into it, Natural Resources advertised for people to plant seedlings. They went to Unemployment Insurance and to Manpower. They went elsewhere. They didn't find anybody. In desperation they came to us. Inmates were paid the exact rate Natural Resources would have paid any other working man or woman who wanted to do that job. They want to renew the contract with us again this year. We are willing, provided they make the search and there is no one else who will do the job. Nonetheless, they will be paid for that, because that's the regular program of the Natural Resources, it has been going on before we were into it, with casual help and their own staff. Now, the difficulty is what do you do with the bulk of the inmates who are not working at a paying or competing line of work. With the end of automatic, statutory, remission the ministry doesn't really have to pay them, in terms of cash, because—they get their incentive money anyway, as they would now—the work that they are doing is towards their release, because they are demonstrating their responsibility.

I notice in the newspaper article about Georgia that they did not pay inmates at all and, supposedly, some of the females, when they went home on weekend passes, had ways of coming back with some spare change. You have to remember also under a system like theirs, those are long-term inmates. We are talking about inmates who are sentenced,



on the average, to five or six months and they do have their incentive pay and most of them have a bit of money when they come in, left over from their court appearance or what have you, which is banked.

I don't think we have ever run into a situation like that where someone has gone home on a weekend pass without funds. We try to have the people with the longer sentences in an institution as close to home as possible. Burch Correctional Centre, as you know, is known as the place for everybody in south-western Ontario. Some of the people in south-western Ontario would prefer to be sent to another institution, like Rideau, around Ottawa; Monteith, near Timmins; Thunder Bay in the north; Glendale in the centre; or one of the Brampton institutions, so that inmates are not that far away from home. They have family and if one is eligible for a home visit, they go home. I think basically the rule of thumb has to be where you are working for an industry, you should be eligible for a weekend pass. I would like to get more industry in. At Maplehurst, out by Milton, we have 20,000 square feet that could be used for almost any type of factory and anybody could work there. I would like to see the type of programs come in where inmates are paid the going wage, the trade wage, no fooling around, because I don't believe in convict labour. It is very unfair to people who have not offended the community to, in the guise of expediency, or what have you, by the ministry, lose their jobs to, or be eroded by, people who have. So, I don't believe in that at all.

There are certain things I would like to do to attract industry. We've got some benefits to offer. I'm being very serious about this. You don't have the neighbours complaining about the noise. The place is brand new. You don't have the absentee problem. Everybody always laughs at that. It's not a question that the guy can't get out, but in industry, as you know, Monday and Friday are not the best days for productivity. Because with our fellows they are earning their way out, you don't have absenteeism. You've got an immediate check if the guy is not going to work; either he's sick or he's fooling around. And we've got a doctor right there which you don't have outside.

I would like to get into the export business, if we could. It would be private enterprise, no question. There would be a profit made. These people would make the going rate and we would sell overseas. I think there are some possibilities for development in a kind of duty free zone, where the products would never be sold in Canada, that

type of thing. This would enable the inmate, when he left, to have quite a sizable sum.

In terms of what we are doing to make sure we don't wind up with a convict labour pool. First of all, I have the authority to form a ministry advisory committee, because that will report just to me. That was one of the notable changes Allan Grossman made when he was the minister. He brought the public in and said, "Look, you come in twice a month and advise me. I want to try out some things. How do you, the public, feel about it?"

The importance of that, of course, is if you don't have public support, no matter how good your program is it will die. There is no question about that at all. Many of the programs in Ontario have been successful because the public was consulted and has said, "Hey no. You are way ahead of your time and there is no sense doing it." It might be right but they won't accept it.

I have just appointed, I suspect it's going through today by order of council, Don Roach to that committee. I've talked it over with Mr. Roach, who has been with CUPE for a long time. He is the patron saint of many lost causes and a good labour man, in fact, I would hate to negotiate with him. He's going to be the judge.

You may recall that Mr. Roach is the man whose primary jurisdiction is Ontario Housing. A year ago a vandal broke a window and the judge sentenced the vandal to put back the window. Mr. Roach stopped it on the grounds that there was a CUPE maintenance man there and that was his job and the judge must find some other way for the vandal to repay it—and I think that makes good sense.

I have written to Grace Hartman, who communicated with me very early on and expressed support for work programs on both levels. She had some very legitimate concerns and I wrote her back and told her there were two rules of thumb. One, if at any time a job—and by that I mean a paid job—for anybody in the community would be lost, that program is terminated right there and then, period. And I pointed out to her that the benefit of the doubt, if it's an iffy situation, goes to the labour union or the worker. We would stop right there, no matter how inconvenient it is for us, because it is not fair.

Second, if at any time it appears that job opportunities of the future are being eroded, we stop it right there. I don't want to be in a situation where we are doing a lot of little jobs this year because there was going to be something else larger done next year but

somehow we did it in dribs and drabs and that other work was never done. Those guarantees are there.

From time to time, confrontation will occur. I would be less than honest if I said it wouldn't. Our people don't have all the ideas in the world and what we think of as perfectly normal may not be. Okay, the benefit of the doubt goes to the unions. Why? Because they are taxpayers, they are supporters. I know of no other community organization that has fought longer, harder, and more successfully for penal reform than organized labour, and I can't understand why the media persists in saying the unions will object. We have had nothing but co-operation from the unions in the entire matter.

As I told Mrs. Hartman, I think it is much better to have that general principle and then whatever the nitty gritty is can be worked out at the local level rather than trying to get a general principle in each and every community—it just won't work because somebody could say, "Look, we could do this in St. Catharines, why can't we do it in Belleville?" If you have the general principle you can say, "We can't do it in Belleville because—" and I think it's much better that way, with a coherent policy.

And of course, Mr. Roach is not in the business of giving away jobs. He will play a very important role in this because he is in the public sphere and so forth.

Quite frankly, after the first of the year, as soon as I can get some other stuff out of the way, I want to form a labour committee. We have not had a labour committee in the ministry for some time. We used to have one, but it was primarily concerned with industrial training and so forth. That was taken over by and large by Colleges and Universities and they wanted to disband.

I want to get some labour participation in some of the programs of the ministry. One of the reasons is that without labour unions, and I know this in my own time, personnel managers are extremely reluctant to hire what used to be known as ex-cons. One of the rationalizations was that "the union will get upset." Well, the unions went in and told the personnel people they really could not care less and it's about time to judge people on their own merits.

Now that we have businessmen and so forth, I would like to get one of those committees going again. I honestly don't know what the structure will be but I intend to do it, because we are going to be out on the street and we might as well be dealing with the people in the street rather than the theoretical people. I think it is very impor-

tant that the community be reassured and we will do so.

One other thing that was raised this morning was the question of how we were going to evaluate the programs, because you don't want them studied to death. I agree with that. There are more plans, files and everything else that I inherited in that ministry that have been studied since 1947. They were beautiful, except by now the programs are obsolete. They have been studied so long that the concept is no longer practical.

I want to do what they do in the United States. I want them evaluated by the media. There are certain difficulties in that, but I don't think they are very difficult. I think the media is in a good position to evaluate them. By that I mean to be able to look at the program so they can see both sides of it, they can see its impact upon the community and upon the person, because there is no question this is a human resources ministry. In fact, it is probably the most human, because we really do control somebody's destiny.

Social Services and Health may or may not. They are assisting, but we are telling people what time to get up in the morning and what time to go to bed and what day the door is going to open and what have you. I think the media, and by that the public, can evaluate them. I think the faster these things are evaluated the better. They either work or they don't work. If they don't work, okay. I don't have all the ideas in the world, and if what looked good in January turns out to be a total disaster in March well let's cut it out and get on with the job.

Your difficulty is in changing from an institution-oriented ministry into a program-oriented ministry. The institution is still going to stay for the people who need it, but if you are waiting to evaluate programs and you wait five years to be absolutely certain, then there is no sense in starting the program in the first place.

I think that will be possible because, as I say, one of the things I have done, and have done deliberately, is that I want this ministry out in the community. We are a community resource. We may be unpleasant, but then a lot of other community resources are unpleasant but very necessary.

The only way we can get out in the community is through the media and the media has to have total access to the ministry or they can't accurately convey what is going on, and the public can't make an evaluation. I don't know of the exact vehicle, because there is no central vehicle of the media in the province, but I think that would be a

good way of evaluating, above and beyond the Legislature and the estimates, of course, this particular type of thing.

The difficulty with the estimates is they come once a year or maybe twice a year. The public is going to have views on some of these programs and they might as well know relatively quickly whether they work or not. We can discuss the philosophical contents and some other things within the structure of the estimates. Would you like me to go through some of the particular items that you raised, Mr. Bradley?

Mr. Bradley: I don't know whether you want to do it right now or when the vote comes up. Either time is acceptable to me.

Hon. Mr. Drea: Okay, if you want to get into the specifics then fine, whenever you want to raise them.

Mr. Chairman: Is that your understanding also, Mr. Davidson?

Mr. Davidson: Fine.

Mr. Bradley: How are we for time?

Mr. Chairman: We have about 12 minutes.

On vote 1501, ministry administration program; item 1, main office:

Mr. Germa: Would this vote include the temporary absence program?

Mr. Chairman: I would think so.

Hon. Mr. Drea: Yes, it could. The central administration of it isn't within this actual program, but if you want to raise it now, sure.

Mr. Germa: The temporary absence program is also hinged to the co-operation of employers, in that they have to agree to accept this person on this basis. Is that not correct?

Hon. Mr. Drea: You are talking about temporary absence for jobs?

Mr. Germa: Yes.

[12:15]

Hon. Mr. Drea: The first criterion is that they have a job to go to.

Mr. Germa: Presuming that person is a steadily employed person. He's got a job and he's sentenced to 30 days or whatever. You then have to get permission from his employer to accept the person into this program.

Hon. Mr. Drea: That may technically be there, but most employers are banging on the door and asking to take him back if we will give him an absence.

Mr. Germa: I am sure you have had communication from the city of Sudbury, Mr.

Minister, from the union involved, where Inco is—

Hon. Mr. Drea: I haven't, Mr. Germa. I don't know where it might have gone, but I haven't seen it, unless it's the last day or so.

Mr. Germa: It has been raised with me on various occasions. In a large work force like that I am sure there must be dozens of openings at any given point in time. But while they do accept some people, every once in a while they will reject one person on the TAP program. The question is, does the ministry have the authority to impose this program upon a reluctant employer, or does the employer have to volunteer to participate?

Hon. Mr. Drea: No, I don't think that it's quite that black and white. We don't have the authority to impose it because after all, the person has been sentenced. If the employer wants to wash his hands of him, provided there are no strictures on him such as the union agreement and so forth, then we are really not in a position to say to the employer, "You must take this person back." We just don't have the authority. I would think that this would more properly be an area for whatever the relationship is between the employees—in the case of Inco, of course, it would be the union—and the company.

I have a clipping here that my deputy has given me—this was back in August, I'm sorry, I didn't see that.

By and large the number of jobs and job opportunities there are for inmates has amazed me. I would have thought now, particularly with the economy as it is—I'll be honest with you, I was going to look into it at one time, should the main criterion be the fact that the inmate has a job and the employer says he has a job. I thought that was a little bit harsh a response. It's turning out not to be. The employer, generally, for a short-term sentence inmate, would prefer to have him back. Mind you, I haven't looked at this Inco situation.

The difficulty with those is that just because the employer wants him back doesn't necessarily mean that the superintendent is going to grant him a temporary absence permit because the superintendent does everything on an individual basis. I get a fair amount of mail which says, "Mr. X has got his job, why won't you let him go out to it?" Some people seem to think that once you find a job that that is 100 per cent of the action. It is not. It is only the first step.

You are saying that this results because we are denying them temporary absences. That



may be quite true. This newspaper clipping is about local 6500. It says several convicted union members are losing their jobs because the Ministry of Correctional Services is denying them temporary leave of absence. Okay. That is the right of the superintendent. TAP in our system is not automatic.

**Mr. Germa:** It's the obverse of that, Mr. Minister. After the superintendent decides he wants to put this person on the TAP program and when the employer decides that he is not willing to go along with it, it's the reverse of what you have cited there. I'll accept the superintendent. If he says that this man is not worthy of a TAP assignment, then I'll accept that. But once the superintendent of the jail decides, then the employer seems to have veto power—or do I understand correctly that's where the power lies.

**Hon. Mr. Drea:** In all fairness, Mr. Germa, the inmate, in order to get the superintendent's approval, has to show him that he has the job—has to show him in writing. I am not going to debate with you that there are occasions when the superintendent knows somebody is coming in—and it is usually mandatory sentences for drinking or what have you, where you have to go to jail. He knows the person isn't going to be back. He immediately contacts the employer and makes him aware of the fact that this guy—if the employer will agree that he continues his employment—will be allowed to go to work every day, okay. If the employer says no, then our hands are tied. Unless of course, the employer, through his union agreement or whatever type of relationship he has with the work force there, complies with that.

I don't see any way that we could ever be in a position, as the Ministry of Correctional Services, to dictate to an employer what employee he takes. We would be doomed, right off the bat. All the employers would say, "We're taking no one." That's the difficulty and I realize it is a great difficulty.

I think this is where we are going to have to have some more consultations with the bench. The bench in these situations could have given weekend sentences, or could have given an intermittent sentence, or even accommodated the Inco shift changes. It could work out what his shift was going to be over three or four months and rule that he would attend upon the Sudbury jail, or wherever it was, at the times that he was not working, and he would be released in time to go to work. The bench could have done that at the beginning. The company would have had no right to let him go, be-

cause they'd say, "Look, we see you made it big in the papers yesterday but that's not affecting us here today." He would be reporting right on time for work.

That is one of the difficulties with the intermittent sentence. It has now become so general that I am convinced in a great many cases the bench really isn't looking at the implications of not giving it. I think that a direction to the bench like that would be in order, because then we are bound by it. There would be no questions. It's not a TAP which says you will serve, and work it out with the probation officers. You can't ask the bench in a crowded courtroom to work out details, but you go over there and work it out with your probation officer, subject to the personnel people, as to what the shifts are.

I think that would be the way around the thing and I think that in the Sudbury area, as you know, the bench there has been progressive, there's a very good community resource centre there where they are working—two of them. TAPs are much more accepted there. I'll venture that from time to time an employer who has been wanting to get rid of somebody for a long time finds this a golden opportunity and he takes advantage of it.

Since everybody is entitled to Legal Aid when there is a jail sentence in the offing, the way to avoid it is to have the Legal Aid lawyer consult with the bench. Since the bench likes to have control over TAPs by virtue of intermittent sentencing, I think it would agree.

**Mr. Germa:** I think I am talking about a different person. I am talking about a steady person in the community with 20 years seniority with the company, whose job is protected by a union contract—

**Hon. Mr. Drea:** Providing he shows up to work.

**Mr. Germa:** No, I think even the jail term is covered in the contract. He is protected. After he is out of jail he is going to go back to that work place.

**Hon. Mr. Drea:** But you're talking about the interim, while he's not working.

**Mr. Germa:** The interim—while he's doing his sentence. That's where there is conflict.

**Hon. Mr. Drea:** All I'm suggesting—

**Mr. Germa:** Some of the men the company accepts on the TPA program, but some of the people it will not. We just can't determine which ones are going to be accepted by the company and which ones are not.

**Hon. Mr. Drea:** Since they are all relatively short-term people, I think the simplest

way is that the information go to the bench that there seems to be a great deal of difficulty and it appears to be not on a regular basis. Therefore the intermittent sentence would be preferable with the times prescribed when he is in jail and the times that he is not working, and then all we have to do is put that in our order, and no matter how cumbersome the order is, there are places to do it.

We have some really odd situations in western Ontario where people are told to serve two Saturdays of the month. We have to go back to the court and ask, "Which two?" They say, "First and third or second and fourth—you work it out."

Then we're in a position, if it's his employment, that we can work it out. I know there are shift changes and nobody knows what's what next month—you can't put that in an order.

I would suggest that it's best for the union to consult right there with the Crown. With short sentences we don't want the guy to lose his job, if only for the reason that if he does, he probably won't get another one. He will become a financial burden and a human burden upon the community if there is no

work for him at all. It will do no good towards motivating him not to do it again because he has lost everything. He might as well shoot the works now. But it could be handled much more easily at the bench level.

If you want to send me the particular details about this, I will be going up to Sudbury and shall probably be talking with the local bench there some time after the new year, and I would be very glad to take it up with them. There's no question that type of sentence, where someone will lose his job and his seniority—at this time in Sudbury—is virtually a life sentence.

**Mr. Chairman:** Any further questions, Mr. Germa?

**Mr. Germa:** That's fine, Mr. Chairman.

**Mr. Chairman:** We shall continue on vote 1501, item 1, when next we convene to consider the Correctional Services estimates. We will reconvene at 2 o'clock sharply to handle the two Windsor bills which are contested. I would ask the committee members who cannot be here to arrange for a substitute, because these are difficult bills and it's going to be a long afternoon.

The committee adjourned at 12:26 p.m.

## CONTENTS

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Wednesday, December 7, 1977

Opening statements: Mr. Drea, Mr. Bradley, Mr. Davidson .....	J-3
Ministry Administration Program .....	J-26
Main Office .....	J-26
Adjournment .....	J-28

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
Davidson, M. (Cambridge NDP)  
Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
Germa, M. C., (Sudbury NDP)  
Philip, E.; Chairman (Etobicoke NDP)  
Williams, J. (Orléans PC)

Ministry of Correctional Services official taking part:  
Thompson, G. R., Deputy Minister













No. J-2

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Justice Committee

Estimates, Ministry of Correctional Services



### First Session, 31st Parliament

Thursdy, December 8, 1977

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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# LEGISLATURE OF ONTARIO

THURSDAY, DECEMBER 8, 1977

The committee met at 3:39 p.m.

## ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (continued)

**Mr. Chairman:** We have heard the minister's opening statements and the statements of the two critics. Does the minister have any further comments answering the opening statements by the two critics, or shall we go on to the votes?

**Hon. Mr. Drea:** I think we are agreed we are going onto the votes.

On vote 1501, ministry administration program; item 1, main office:

**Mr. Bradley:** I'll deal with the Ontario Board of Parole. It does come under this vote, I believe.

Would the minister give us the criteria for membership of the Ontario Board of Parole? I am wondering if any of its members would be considered specialists or experts in any particular field. Would there be criminologists amongst them, people who have studied the workings and the effectiveness of parole?

**Hon. Mr. Drea:** Since all of them were appointed prior to my becoming minister, could I refer that to the deputy minister? We have a number of other people from the staff who may want to supplement his answer.

**Mr. Thompson:** The membership of the Board of Parole is in the annual report and I'll refer to it as I comment on the different members, at least those whose history I am aware of. Mr. Coughlan, who is chairman of the Board of Parole, may be known to some of you as having been the person who initiated the probation service in Ontario and for many years was its director. Shortly after the probation service joined our ministry, he moved from that post into the chairmanship of the Board of Parole. He has a history of training in parole and probation services before coming into his directorship. He was also, I believe, trained as a leader in the church before that.

Mr. Morrison, who is one of the two vice-chairmen of the board, has a doctorate in education and was at one time superintendent of the children's training school at

Bowmanville. Mr. Hill, the other vice-chairman of the board, has a long and very distinguished career as a parole and rehabilitation officer—I guess that was the title used a few years ago. More recently he has been a probation and parole supervisory person; he was assistant to the director of that service for a number of years before he went on the board.

Mrs. Markle, many of you know, has worked for many years in association with the ministry, at one time as executive assistant to the Hon. Allan Grossman. She has had a long contact with our ministry and its work.

Mr. Hooper, in his career as a member of the ministry staff, has had more superintendencies than almost any other person I know. He has had very wide experience in the administrative area in corrections.

Mr. Nokes was a senior staff member in the probation and parole service before he moved on to the board and I am reminded by Mr. Hughes that he had a career in the police service before that.

Mrs. Nicolson is the most recent or second most recent appointee to the board. She is a person out of the business world in Hamilton.

I believe that is all of the membership, Mr. Chairman.

**Mr. Chairman:** Are there any further questions?

**Mr. Thompson:** To my knowledge there have never been written criteria for membership on either our Board of Parole or the National Parole Board in Ottawa. Governments have attempted to select personnel for boards who are expert in their judgement of individuals and expert in their ability to appraise readiness for an individual to move back into the community.

The most critical criterion that I would perceive is in terms of one's ability to assess individuals and to have a genuine feel for their readiness to go back into society.

Our board, unlike the National Board of Parole, sees each inmate who is parole eligible—who has an indefinite portion in his or her sentence. Therefore there is a kind of counselling component involved in our board activities, where individuals are seen and considerable time is taken with them to



review their history of experience within institutions. That process in itself can often be a stimulus for someone who is not doing very well. It may encourage them to try to improve their conduct and to get down to business before the next parole board appearance, if they are choosing to appear again or if they are eligible to do so.

**Hon. Mr. Drea:** The other thing that you have to bear in mind is that we do not have parole authority over every Ontario inmate. You were going to raise that a bit later on—where we are going in that area. Really, we only have the indeterminate portion. The last full year's figures show that about 65 per cent male and about 81 per cent female were parolled.

[3:45]

Those figures can be misleading one way or another. In some cases, by the time we were in a position to parole them, parole was for two weeks, or one day—that type of thing. So we played a very limited role in it. Very often one hears somebody's view that there should be more parole or there should be less. Our authority is only when we get into that final end of it.

Maybe we'll want to get into that later on when we discuss what I have said, that we are now going to try and negotiate to take over the parole procedures for all Ontario inmates of our institutions on the determinate portion.

**Mrs. Campbell:** Has the ministry looked at the proposed—I've forgotten the title of it—the new psychology bill, with reference to any counselling service by the members of this board, to ascertain whether or not any one of them is a psychologist? Or would they not all be precluded from doing any counselling whatsoever under that Act?

**Hon. Mr. Drea:** I don't think they are really in a position to give counselling. They're sitting in judgement as to whether or not somebody should be released now. Certainly, their recommendations as to time of release subject to certain conditions, or refusal to release subject to certain recommendations, would naturally be referred. They wouldn't come under that because they're a referral.

If they were going to grant parole subject to taking advantage of a community resource in that particular service it would be spelled out, whether it was a psychiatric hospital or group therapy or what have you. That obviously would come under professional auspices but it would be the province as a whole rather than our system that would be determining its efficacy.

If there is a refusal to parole along with

the recommendation that the person should be sent to the Guelph assessment treatment unit or to OCI for particular treatment, we conform to provincial legislation by virtue of the professional people we have employed. I don't think the presence of a psychologist on a board would enhance or negate their ability to refer because the parole board is not a treatment unit.

**Mrs. Campbell:** I'm not speaking of treatment. As I understand it, as part of their function, they do test for attitudes, emotions and other aspects of behaviour. Under the Act, they would have to be registered psychologists. Have you given any consideration to this, because the Act is so broadly defined?

**Hon. Mr. Drea:** I haven't given any consideration to it because in all frankness a judge would have to be registered under that Act before he could impose a sentence. In essence, where there has been a conviction registered the sentence is really measured by many of the criteria you have mentioned.

I've always found that when legislation intrudes upon the bench with the best of intentions, the bench has a rather immediate way of getting exemptions. I don't think there would be any exemption. The clarification insisted on by the bench would include other areas of the system of justice.

I'm glad you drew this to my attention.

**Mrs. Campbell:** The minister might look at the Act and consult with his colleague so he will be ready for any questions posed.

**Hon. Mr. Drea:** As a matter of fact, I am consulting with my colleague on part of this legislation dealing with the questions raised by the people in mental retardation. I think the same principle is involved.

**Mr. Bradley:** I see there is an Advisory Council for the Treatment of the Offender. It appears a number of those people are certainly well qualified academically. Among those would there be any who would fit into what you might call the narrow definition of criminologist?

**Hon. Mr. Drea:** Mr. Roach, the person I was talking about, has been added to the council. I don't think there is a criminologist per se.

**Mr. Thompson:** I would not say any of the people on the group has a formal degree in criminology or extensive training in that area as it is a moderately recent kind of invention at most universities. In any case, many of the people on this board have come in through related forms of training that were much more common in earlier years. Professor Ryan of the Queen's Uni-

versity law faculty is one of the closest to the criminological area of work. Mr. Newman is a lawyer by training. Mrs. Freel was a probation officer with us before she moved on to MACTO. Mr. Eastaugh was for a number of years a superintendent in our system and then moved on to be the principal of a school here in Toronto for some years. Monte Harris is a lawyer. Father Kelly is an administrator with a vast array of training in looking after St. Michael's College. Dr. Solursh is perhaps one of the better psychiatrists in Toronto in the area of drug addictions and is very helpful to us in that area. Jack Marks is the staff superintendent of the Metro Toronto police and brings a very practical criminological point of view to the group.

**Mrs. Campbell:** Has the ministry yet received the copy of the Ombudsman's report?

**Hon. Mr. Drea:** No. I went through that yesterday with everyone. I know you have been interested in it. Perhaps Mr. Bradley and Mr. Davidson will bear with me for a moment. As you know, these things pass backwards and forwards between the civil service and the Ombudsman because quite frankly, the Ombudsman Act is lacking when he does an overall study. It's really on a one-to-one basis.

There are drafts around. I have deliberately not read them till the final report comes. When the final report is received by me, it is my understanding there will be one copy of it. At that point, I am not going to read it but I am going to send it out to the printers for whatever number is required. We are talking of about 500 copies.

It has to go to the media. I'm not going to sit in front of people and tell them I have the report and ask them if they would like to ask questions on it. At the time it comes back from the printer, when the copies are available I will consider it received and 24 hours afterwards we will discuss it. I'll start reading it at the same time as everybody else. Hopefully, it will be in January.

It still has not been received. It's the Christmas period and the printing companies are very rushed. A great number of people in the Legislature don't want to come back on Christmas Eve, no matter how meritorious that might be.

**Mrs. Campbell:** We have arranged for the turkey to be cooked for the House on December 24.

**Hon. Mr. Drea:** Mrs. Campbell, if you will cook it, I will be here for Christmas. Some

time in January when we have an idea from the printer, I will notify your leaders and your critics within 10 or 12 days of whenever it is.

**Mr. Lawlor:** What is happening at Mimico reformatory at the present time? Is there some problem between the nursing or the medical staff and the custodial staff?

**Hon. Mr. Drea:** Not that I am aware of.

**Mr. Lawlor:** You are not aware of it?

**Hon. Mr. Drea:** A work program has been put in that commences at 6 p.m. on Fridays for intermittent sentences. It provides gainful employment—not in terms of cash but it is work that will be necessary for the institution. It goes through to Sunday night. It depends upon the physical ability of the person. Not everybody has to do it. That program has been widely received by the inmates.

That is the only development I am aware of at Mimico. If you would like to be more specific, perhaps privately, I would be very glad to check into it whenever you want.

**Mr. Lawlor:** There was something to do with Mr. DeGrandis. He's the supervisor there, isn't he? The nursing people are, in a sense, outside his jurisdiction, or at least there's a certain autonomy there. People have been referred to medical care within the institution and there has been some overriding. Anyhow, I think the best thing to do is simply bring it to you personally. I just thought you'd know about it.

**Hon. Mr. Drea:** Might I suggest that Dr. Humphries is here in the back row; he's our chief medical adviser. He would be the person who could get to it the fastest, if you'd like to consult with him, say, perhaps tonight or tomorrow. Pardon me, we don't meet tomorrow.

**Mr. Lawlor:** Yes, I'll dig up more information. I just heard some rumours.

**Hon. Mr. Drea:** If you're not available, if there's some conflict, we can arrange to communicate with you in writing on the matter, if that's all right.

**Mr. Lawlor:** Very well. Thank you.

**Mr. Bradley:** I've been provided with information on the Ontario Board of Parole and the minister's advisory council for the treatment of the offender, and we find that we wouldn't have on those bodies anyone who would be strictly defined as a criminologist. My last question then would be when appointments are made in the future, would you feel it appropriate, recognizing it is a relatively new field, narrowing it down to criminologists? Would any consideration be given

to appointing a criminologist to either one of these boards?

**Hon. Mr. Drea:** Yes. Remember the training school advisory board is no longer with us.

**Mr. Bradley:** Right.

**Hon. Mr. Drea:** In complete candour, I'd consider other priorities. I'd consider the labour man essential because of what we discussed yesterday, the roads we're going into. Also, I think you have to remember that this isn't the committee that formulates policy for the ministry. There is a professional committee within the civil service which embraces those academic specialities,—and does it very well.

The original reason that Mr. Grossman in his tenure set up this committee was that he had the professional committee within the ministry, what he was concerned about, was that this would be a public response to it. It doesn't make policy and it doesn't break policy. His concern was that in all fields—especially this one—you must have public acceptance or no matter how good your program is it will fail. That was the original purpose.

I think there's no question that I have changed the rules with the appointment of Mr. Roach, because Mr. Roach takes in a very particular area which is to make sure that new programs do not affect economics. I don't think that was ever considered before because there was nothing that would affect economics. As for appointing a criminologist or someone in the allied fields—I think that's what you're talking about—yes, certainly.

If at any time the critics have somebody in mind, it is, quite frankly, an open-ended committee. It's not limited by statute, and there's no sense in having a committee that in any way conforms to my thinking all of the time. That's not the function of it. That's not why they meet. That's not why they're appointed, so if you have somebody, by all means let's have a look at them.

I don't mean to imply that this committee has ever been a patsy, but the function of it is not to tell the minister how good he is. The function is to test the response from the broadest public attitude possible. If you have somebody in mind who's done work in the province or what have you, for heaven's sake send the name in, because we want to make it as broad as possible.

Item 1 agreed to.

On item 2, financial services:

**Mr. Bradley:** I understand, from looking at the client information systems and records and data processing, that you're fairly ex-

tensive in this field. As a matter of fact, when you had the services for the younger people, it was a very extensive service which, as we mentioned yesterday, is still being utilized by the Ministry of Community and Social Services. Do you use any of the facilities of the Ministry of Government Services? You would have systems of your own, I presume? If so, to really get into the meat of it, Mr. Minister, what kind of security procedures do you have, since this is a thing that is discussed now in the House on many occasions? What kind of security procedures govern the information systems and records? How confidential is the information?

[4:00]

**Hon. Mr. Drea:** First of all, just in broad strokes, the answer to your first question is yes, and the answer to the second question is absolutely. Having said that, let me re-direct for somewhat greater detail to Mr. Algar, and he can answer very specifically in both areas for you.

**Mr. Algar:** We are tied into the Ministry of Government Services. We use the computer centre at Leaside for our system. We believe it to be perfectly secure. Only certain people are allowed access to the system.

The system is inputted firstly from our own ministry through an off-site terminal. The tapes therefore are punched in our ministry and they are sent by data transmission wires to Leaside. The information there is maintained in a very secure facility as far as we understand it. We receive those assurances from the Ministry of Government Services anyway. Only a limited number of people in our ministry are allowed to touch those programs—only the programmers and they are our own staff members.

Within the Ministry of Government Services we believe that there is quite extensive security. As a matter of fact, because of the press reports on the Health system about a month ago, I wrote for assurances that our data was being treated confidentially. They have, as I understand it, a consultant looking into the security of that system and they have promised to give me a copy of their report when it comes back. In the meantime I am quite confident of the security of the system.

**Mr. Bradley:** Through the chairman and the minister, is your staff given a security check such as would be the case with certain sensitive jobs in the federal government? They are supposed to have security checks as well—I am not certain whether they are necessarily successful or not with those. But you would have those, would you?



**Mr. Algar:** Yes. In our ministry particularly we have security checks on all persons who are employed. We have a double security check in actual fact.

**Hon. Mr. Drea:** As a matter of fact, Mr. Bradley, one of the terms and conditions of seeking employment with us is that you must agree to be fingerprinted. The application form states very clearly that we do not preclude from employment anyone who has a criminal record or record of involvement with the police. However, we want a candid answer as to what it was, and also you must agree to be fingerprinted.

The admission of a police record does not preclude you from employment, but we go on to say that the function of this is to remove you from any potential source of difficulty for yourself. This is a polite way of saying that we don't want you in a position where you might face extortion or harassment or something else. This could be by virtue of a threat that a third party could come to the minister or ministry and say: "Did you know this person had a criminal record, therefore they shouldn't be working for you?"

So in that regard it is probably as good a security check as is possible. Mind you, because of the nature of the ministry—and in the past we were dealing with even more sensitive items such as juvenile records, which are forever sealed—at the moment we are dealing not only with inmate records, but with criminal records and psychiatric and psychological assessment records, and we feel it is a necessary precaution.

On the other hand, just because a person has had some difficulty with the law, as a ministry certainly we are not going to say that that precludes him at all. We just don't want him as a person to be in a position where somebody might try to take advantage of him, and because of the temptations and sometimes the false fears that he might succumb. So in that area it is a very thorough document.

I would be very glad to send you a copy of the application forms, and it is spelled out clearly in English. It is not one of these things from the Attorney General et cetera. The reasons why we want the information are spelled out very clearly. If you do not wish to provide it, we don't ask any questions. You are just not considered to have applied for the job by virtue of the fact you did not fill out the entire application form; it's just destroyed and that's it.

**Mr. Bradley:** What specific statutes would govern the release of any of this information?

Are there specific provincial statutes which govern that?

**Hon. Mr. Drea:** Mr. Dombek is our chief solicitor; his first name is Carl. Perhaps he might assist you. You might want to repeat the question to Mr. Dombek.

**Mr. Bradley:** My question was, what specific statutes would govern the release of any confidential information that's available to the ministry through their data processing computer system?

**Mr. Dombek:** I don't think there is anything specifically set out in the Ministry of Correctional Services Act at this time. Of course, one of the problems the ministry has is that we are also looking at and waiting for the report of the royal commission on release of government information and what recommendations they will make. There are some ideas floating around the ministry and we are thinking of a type of release with the concurrence of either the minister or the person concerned. But that is only something we're thinking about right now, and there isn't anything specifically.

**Mr. Bradley:** Arising out of the answer I have what you might call a supplementary question. You mention the consent of the person who is directly affected. What if that person would be in a psychologically disadvantaged position. Obviously you wouldn't then release the information.

**Mr. Dombek:** No, it depends on who the information is released to. We consider there are two types of information. There is confidential information. Then there is information as to date of birth and so on. Confidential information that may include psychiatric report or matters of that sort can only be released to another professional with the consent of the person concerned. For example, after he leaves our institution and wants to receive treatment from a psychiatrist or psychologist, then with his consent we will release that information to that doctor. We will not release information even to lawyers, unless they subpoena. We are, of course, bound by that and the court will make the final decision in that case.

**Hon. Mr. Drea:** I don't know whether it's available yet to the general legal profession, but the question has been raised to me that quite often the court is in the habit of the presentence report being handed down right at the moment of sentence. Of course the court has it, but the defence and the Crown get it right there—and I guess the defendant gets it right there. The argument has been raised by the defence bar that they would

like access to it some time prior, because while a conviction has been registered they want necessarily to check the validity of the presentence report.

The policy of the ministry now is that there must be the consent of the convicted person, because the report was done for the court and him. If he will give a written consent to his solicitor, we will provide it. That's a very delicate area. When a convicted person is still awaiting sentence for one reason or another, we would really want to know why he did not want his solicitor to have his presentence report, provided he is in a relatively normal state. There would have to be some awfully good reasons if he refused that consent.

There is another thing—and I will dwell just a couple of minutes on this because I think it is very important to members of the Legislature, for sometimes they get very mad at our staff. We absolutely refuse to deal by telephone. I've had some complaints from members that they phoned up the local jail to ascertain the condition of or such-and-such about so-and-so who is being held there. They say the superintendent or the deputy superintendent was "very arrogant" and refused to provide the information, yet everybody knows who they are—in other words, the member for so-and-so. We will not do it by telephone.

It is not unknown in our system that somebody calls up, and especially in the larger jails, says this is Frank Drea, or this is Pat Lawlor, and I am looking for so-and-so, and appears to have a remarkable amount of information about the person. We don't know who is on the other end.

I don't believe in this nonsense of "give us a number and we'll call you back." You write us a letter, or you come in person. All any member of this House has to do is come in person to the institution, if it's an emergency—I know sometimes it is inconvenient—if it is Saturday or something and you can't write a letter, but all you have to do is bring your little white card showing that you are a member of the Legislature. We'll enter you in the book and you are entitled to the information.

Quite often, and I suppose I can understand it, a member receives a phone call late on Saturday night about something, and it is his duty to investigate. I would hope that the members of the House understand our predicament.

If necessary, we will send a car for you. We are not going to get into this game, when there is somebody on the phone, of "Give us a number and we'll call you back.

It simply isn't good enough, because although you're not dealing with criminal records—we don't have those—you're dealing with inmate records, you're dealing with very intimate developments and psychological reports and assessments, so on and so forth, and we're just not going to pass that information out over the telephone.

**Mr. Bradley:** I think that's a very wise and reasonable policy.

**Hon. Mr. Drea:** I just hope the members will not get mad at our superintendents, deputy superintendents, or whoever is at the phone, because anybody who gives out information over the telephone, even to me, has just terminated their employment.

**Mr. Bradley:** To explore this a little further, as a new member of the Legislature and not being wise in the ways of how much information I am able to glean from various ministry officials, what specific information is available to the members upon visiting an institution, or by writing?

**Hon. Mr. Drea:** Certainly any general information, but not clinical information. That would have to be obtained in another way. There are avenues by which, in a logical, orderly fashion, you could obtain it, perhaps through the solicitor with the consent of the particular person.

One thing I should make very plain is that all of our information is available without question and by law to the Ombudsman and to his staff. That is part of the Ombudsman Act and over that we have no control. The responsibility for what happens to it after that is beyond us. The Legislature wanted that and I can understand why.

But clinical information is not given to the member. There are other very logical, normal avenues by which that can be obtained, but some of it, quite frankly, is extremely personal, extremely intimate—you're dealing with all aspects of the human condition. We want to be very frank with the inmate, so the inmate can be completely frank and candid with the professional people who are trying to counsel or treat him. Therefore that information, since it is provided willingly, has to be protected.

Of course, if the particular inmate wants it to be revealed—if he figures it is necessary and there is a good reason—then I think there are logical, orderly, safe steps by which the member can obtain it. It is not a closed door.

**Mrs. Campbell:** I wanted to touch on something the minister said with reference to juvenile records. You have said that they are permanently sealed, but where are they? Are

they kept within your ministry? Do you have any records of juveniles?

**Mr. Chairman:** Mr. Thompson will reply.

**Mr. Thompson:** The juvenile records as it happens, are still in our building in Scarborough. But that's simply a function of moving to new space, which the juvenile division will be doing very shortly. So those staff who supervise the records area and the records themselves will go. Of course, some of that data is also on the computer system we were talking about earlier. I am talking now about the hard copy file which is, of course, kept securely locked up in our building.

**Hon. Mr. Drea:** I may say, Mrs. Campbell, even I can't see it.

[4:15]

**Mrs. Campbell:** I have somewhat of a dichotomy about this. Generally speaking, of course, I endorse the principle that juvenile records should be sealed. But I have seen too often children who have real problems psychologically and otherwise who go on to be adult offenders and there can't be a real in-depth understanding when all of this is cut off.

I don't know how you overcome the problem. So often when they get to be adult offenders in the adult courts they also miss out on any psychological or psychiatric treatment because there's a lack of knowledge and a lack of understanding about what happened to them as juveniles. I wondered if any thought had been given to looking to see whether any jurisdiction has overcome this kind of situation.

I had the unfortunate experience of trying to assist a young adult to get some psychiatric treatment. I learned from his family of the problem the young man had as a child. To my horror, he didn't get the treatment in the adult division. Eventually, as far as I was concerned and as far as the family was concerned, he committed suicide in a very bizarre airplane accident.

It's been on my conscience, I have to tell you, ever since, that I was really unable to prevail upon anybody to look at this young man—he was 18 or 19—and to try and get the treatment in the adult section for him. Nobody could look at the records or get the information that might have assisted in a more definite order for treatment for this boy.

**Hon. Mr. Drea:** Mrs. Campbell, before Mr. Dombek answers that in detail, when I say they're sealed, obviously they're sealed subject to the court.

**Mrs. Campbell:** That's right.

**Hon. Mr. Drea:** You'll recall a case in London where we did not receive a psychiatric assessment. On a relatively short sentence, where I think we cannot be faulted, the person was freed and went out and destroyed himself in an equally bizarre manner.

As you know, both Dr. Humphries and I have been insisting that since the court quite often has these records at the time—independent of the presentence report but, nonetheless, it has them—once someone is bound over to us for sentence, the court, rather than regarding them as the total jurisdiction of the court, not on the grounds of law but that they paid for the whole thing, like the transcript, if they would only send us the photocopies—and sometimes it's only 20 cents; there are two pages—that instead of us having to start from scratch in our treatment and assessment units, which is a loss of very valuable time, we could commence immediately.

I think the role in this really is that while the record is sealed for the juvenile, the court at any time has the right to open it up. I think if the court has these or is in a position to obtain them at the time of sentence that they obtain them. Then because they have bound them over to us for a period of time—which is literally what a sentence is because we're the agent of the court and the agent of the court alone—if they would forward them to us rather than taking the position that the court clerks often take—not the judges but the clerk—that we paid for this, therefore it remains with us, the same as the transcript," I'd willingly pay for it. Except that by the time we find out that there is a record, quite often we are in substantial difficulties.

The reason for it also is that a lot of these assessments are done in our institutions while the person is a remand prisoner. He is being held for assessment; the psychiatric report is conducted in our institution but the psychiatrist can't give it to us because he's specifically acting for the court.

Besides, at that time the person is still innocent. There hasn't been a conviction. Dr. Humphries and I, through the course of the winter, will be talking to most of the courts in Ontario. I think this has just been an oversight. It is perhaps something that has been around since before the photocopy machine or almost-instant transmission became available, and it was a costly thing to get done. That is something we do intend to do.

Perhaps Mr. Dombek could comment further on it.



**Mr. Dombek:** If I remember correctly, the original question was whether any other jurisdictions had faced this problem. I don't think they have faced the specific problem you have pointed out. I know there is a Maritime province—I believe it's New Brunswick—that has recently passed a release of information Act, something along that line, releasing government documents. But they haven't specifically looked at the situation where you have the transfer of a juvenile to the adult system.

The other aspect of confidentiality has been looked at in some of the western provinces. But they have taken a very narrow view, even to the point where in their corrections Act they have specifically stated that the probation officer cannot release as evidence or cannot testify against any family court proceeding in which he has been trying to counsel the family involved. There really isn't any sort of coherent policy even across the nation on this problem. As the minister has said, if a court ordered the release of a document we would certainly do that.

The other thing that comes to my mind is that on certain occasions, when a court has ordered a presentence report it becomes known to the court through this report, even though it is done by an adult probation officer, that the person involved is well known to the police in juvenile matters and perhaps was even undergoing some treatment under the supervision of a juvenile probation officer. In those cases that I am aware of, the provincial court criminal division has ordered a continuation of probation or has ordered a conditional discharge with a term that would include supervision under that juvenile probation officer.

It becomes a problem, although the ministry is unaware of it at the time in most cases, when a new charge is brought up in front of the court and the young adult is in a hurry to expedite the matter and pleads guilty to get it over with—he doesn't want to go through the trauma of a long courtroom experience and the presentence report and so on. If the ministry is advised of it we try our best to have some cohesion between the two groups. But it's almost impossible. And we try and protect the confidentiality, which is another important aspect.

**Mrs. Campbell:** Sure, sure. I'm not quarrelling with the general principle. It's just as it applies to a child who has had obvious problems. If you seal that record and nobody brings it to the attention of either

his lawyer or of anyone else, it seems to me we lose young people by trying to protect them sometimes. And it bothers me.

**Hon. Mr. Drea:** You lose middle-aged people too, Mrs. Campbell.

**Mrs. Campbell:** I know.

**Hon. Mr. Drea:** It's a great concern to us that we don't think the appropriate time to discuss who had jurisdiction of the records—not us, of course—is at the time of the inquest. It's a little bit futile then.

**Mrs. Campbell:** Yes.

**Mr. Davidson:** I'd like to branch off a bit, if I may, on what Mr. Bradley opened up originally, and that was the data system. You mentioned your ministry had an input at Leaside. Who does the outpick? Who is responsible for taking information out of the computer?

**Mr. Algar:** We are, sir. We have a terminal, as I said, it's an intelligent terminal, theoretically speaking, and it is a printer. We can order information from the computer and it is printed out in our building.

**Mr. Davidson:** How many operators would be in charge of that computerized system?

**Mr. Algar:** We have one senior operator and two other operators. We have a number of programmers who are also capable of obtaining information from the system. We obtain a great deal of information, much of which is financial information, for example, sir, and that isn't at the same level of confidentiality as is client data. But we have a so-called signature system by which only certain people can provide a signature, which goes to the computer centre in Leaside, and then bonded operators mount those particular tapes to send us back the information.

**Mr. Davidson:** So your system appears to be on the surface at least a little more secure than, for example, that of OHIP.

**Mr. Algar:** I can't speak for OHIP to be honest.

**Hon. Mr. Drea:** It had better be.

**Mr. Algar:** We believe it is, sir. We have inspectors in our ministry who look at this sort of thing. We have auditors. It certainly had better be, as far as I'm concerned.

**Mr. Davidson:** I would certainly like to hope it was anyway.

**Mr. Bradley:** Just one further question. You have a client control data processing system in the Toronto jail for the Toronto jail specifically, do you not?

**Mr. Algar:** Yes, sir. That is somewhat of

a developmental system. It's almost, if I can use the analogy, like an airline booking system. It's to relate people, just as people, not as clients; not as people with a case history or anything; it's just to move people around cells and so on.

**Mr. Bradley:** So it really doesn't affect the system as a whole?

**Mr. Algar:** No, as I say, sir, it's almost like an airline booking system.

**Hon. Mr. Drea:** Well if you've ever been to Detroit and seen their computer system in the Wayne county jail, which is a very large place, it has its aspects. You know who is there and it also is a very good way of keeping track of remands, so you don't lose them in a breakout.

**Mr. Chairman:** Shall item 2 carry?

Item 2 agreed to.

On item 3; supply and office services:

**Mr. Bradley:** Could the minister give a report on the extent to which fire-resistant mattresses have been introduced into provincial correctional institutions? Is that complete now?

**Hon. Mr. Drea:** Yes, completely.

**Mr. Bradley:** That's very good news. You mentioned your mattress factory—

**Hon. Mr. Drea:** If you want to go on, the federal government wants to buy 10,000 from us for their institutions.

**Mr. Bradley:** Is this from your mattress factory?

**Hon. Mr. Drea:** Yes. We have the technology. A company operates under licence from us to use that technology to produce the mattress; the actual physical labour, if you want to call it that, is done in the Mimico jail, where, as I said yesterday, inmates are paid dollar for dollar what they would be on the outside.

**Mr. Bradley:** So all of these mattresses are produced in Ontario and put in the institutions?

**Hon. Mr. Drea:** Yes, sir. If we could dwell on this for a moment I would like to make a sales pitch. The polyurethane mattress, which was the killer at Stratford, is—what? two minutes, 53.2 seconds, the smoke from it—guaranteed.

There are a large number of other institutions in this province and not just the federal penitentiaries. When I talk about our own institutions those are jails, correctional centres, treatment centres, et cetera. There are certainly markets there. But the federal government is responding. We haven't yet had in-

quiries from the homes for the aged, hospitals, psychiatric hospitals, where certainly the problem could be the same as it was in the Stratford jail. I'm not suggesting someone would deliberately incinerate as they did there, but you know the possibilities of fire in a mattress.

It is very interesting that the technology was developed in the United States by the penal institutions of the state of Florida. At the Wayne county facilities, the Detroit city jail, they are the only ones in the United States—they didn't buy from us, they bought there—to have completely replaced their mattresses. The sheriff there told me that because of the Stratford and the New Brunswick affairs they made that a priority item.

[4:30]

But certainly in institutional care that mattress is going to be essential. I am surprised that in other estimates people are not asking "What kind of mattress does your patient or your resident lie on?" Certainly with the disastrous results of the Stratford fire you have to look at the potential dangers, and while the inquest was limited to Correctional Services, I would think other ministries—and indeed municipalities and so on—might be interested, but so far nobody seems to be.

**Mr. Bounsall:** What is your fire resistant material?

**Hon. Mr. Drea:** Old-fashioned cotton.

**Mr. Bounsall:** How do you make it fire resistant?

**Hon. Mr. Drea:** It is impregnated with boric acid. It will burn, there is no question. It will smoulder but it does not let off lethal fumes. I don't think there is anything yet devised by man that won't burn if you hold a flame to it long enough. But with the polyurethane mattress it was simply the fumes, period.

**Mr. Bradley:** Has this been as thoroughly tested as possible? I realize now, in 1977, it is a different story from 1955 in terms of testing.

**Hon. Mr. Drea:** In the state of Florida—and it was their penal system that developed this—they did exhaustive testing before it went on the market, because otherwise nobody would buy it. You simply had to show it would do the things it should do, because they were already loaded up with the conventional type, which would not catch fire but unfortunately, in less than three minutes of being close to it it's all over.

The other thing in connection with this, and I think this should be pointed out, is that one of the factors in the Stratford fire

was the inability of the staff to find the key-holes because of the smoke. In our institutions every keyhole and almost every place where you have to get access to has been painted with luminous paint. That's been exhaustively tested. No matter how dark it is it lights up around the lock so it can be located.

Another thing too is we don't use regular paint any more; we use fire-retardant paint—and this is at great expense. The reason I raise this is it costs about three and a half times as much per unit and you have to use double the amounts because one coat won't do.

There has been a growing criticism from people who come into our institutions that they are dirty and need paint. They are not dirty and they don't need paint. But the fire-retardant paint does not have a clean finish as does an oil-based or latex paint, even with three or four coats, because it's in a much more powdery form and it tends to act as a sealant.

I've noticed in some reports from the public institutions inspection thing that they are constantly commenting on that. I've been in those institutions and there has been three or four coat of that fire-retardant paint put on very recently. Once again, the experience in the United States has been the same. The Wayne county jail is constantly being criticized for being dirty. It's because they use fire retardant paint. It does not come across as nice and plain as normal paint.

**Mr. Bradley:** Mr. Chairman, further to that, it arises out of the minister's comments, and perhaps I can be allowed to diverge just a little bit on this, I have tried to elicit from the ministry a general comment on what used to be called the grand juries and their effectiveness. We see reports released to the media that are sometimes rather startling, and later we find out, when your ministry officials explain some of these items, that the reports were pretty well out of line but the damage has been done. Have you a general comment on them?

**Hon. Mr. Drea:** First of all, in no way, shape, or form do I want to try to deter those people from their public duty. I also know it is extremely difficult for the court system to find instant experts. The court says, "Come on, this is supposed to be the public and you pick and choose."

The difficulty, of course, is—and I can give you examples—they will say such things as, "There have been people held in here for five and a half months, why don't you do something with them?" They are talking

about remand prisoners on warrants of committal, who are not in our destiny. They will criticize such things as the place appearing dirty; we say it's fire retardant paint and it will always appear to be dirty, it does not have the same finish as normal paint.

One of the things the court and the sheriff are going to have to do—and I am not going to do it for them, because I think that would be wrong—is to brief people generally on some rather obvious things. For example, that this is a jail; there are two types of persons in here. There is a remand prisoner and there is a sentence prisoner on short term.

What concerns me about these reports is not what's in the media. What concerns me is that these people go into an institution to do their public duty. They devote time and energy to it but they're focusing on the wrong things. Once they got that out of the way and they understood that there could be something else they wanted to focus on, it would be on the importance of the system, rather than what one now gets out of their reports.

I think that guidance is something that is at the other end of the system because I don't appoint them. The law says they must be allowed to come in and they're not impeded. I don't want to do that. I don't care whether they praise us or damn us. They're doing a public duty which should be done.

We get into a question such as at the Niagara detention centre where we are told the correctional officers did not appear to be responsive toward rehabilitation efforts. That was the maximum security section where the people who wrecked it back in August are still being held awaiting trial.

They're not even our prisoners. They were federal parole violators and federal prisoners awaiting transfer at the time they tried to wreck the place. They were never ours; they were just being held. Had that been told to that particular panel, I think it would not have interested itself in the matter. How could we be rehabilitating people who are still technically innocent? There is a limit.

I think the court, the sheriff and other public authorities are going to have to spend some time there. It shouldn't be a one-half hour visit just to comply with the law. They're going to have to develop some guidelines and perhaps take a short course or something like that. It cannot be done by us for the rather obvious reason that we're being judged and the person being judged should not set up the rules of the game.

It is an important function. Notwithstand-



ing the fact the grand jury is no longer with us, the one function of the grand jury that's retained, albeit under another name, was this one because people thought that this was important, not only in our institutions, but in other institutions. I would certainly hope there would be a way by which the energies and talents of the people who are chosen to serve on this could be directed rather than, as Mr. Bradley has suggested, having just this long report.

We reply to it within a day and three-quarters of the report just goes right out the window. The tendency at the end of it all is that even the public that is being asked to judge it through the media say, "They didn't know what they were talking about, so let's forget about jails," which negates the whole principle in the first place. I think that's something over on their end. To tell you the truth, I think the courts or the sheriff regard it as a necessary duty. They pick a group and say to them: "Here is the place. Let's have your comments." It should go much further than that if the system is to work.

**Mr. Bradley:** That is a very reasonable answer to that question.

I don't know whether food purchasing comes under this vote, but may I presume your purchasing policy, though it does not exclude imports, is an Ontario first or at least Canada first purchasing policy? In asking that question I may note at this time the support of many members of the opposition for your efforts to assist the agricultural industry in Ontario by bringing about sensible purchases, which are not depriving inmates of any nutrients but are assisting our agricultural industry. What is your general policy in purchasing?

**Hon. Mr. Drea:** The general policy in food purchasing involves nutrition. The daily menus in all the institutions are planned and scheduled on paper. I'm sure there can be some deviations. If steakettes aren't available, they can use hamburger or something like that. The point is that it has to be nutritional because we are going to be keeping some people for a fair period of time, even as remand prisoners. Some of them don't come in in the best of shape.

Secondly, after that is planned—and it takes into account the various nutritional components—one of the rules is that you can't tell the day of the week or which meal it is by what's on the menu. In other words, if it's roast beef, it doesn't have to be Wednesday. The menu is deliberately rotated and I think that's important in an institution.

Also, one of the things that has to be looked

at, quite frankly, are the different dietary habits of the people we are now having. We are as cosmopolitan as the rest of the world. You get into the matter of, say, fish and chips, which is acceptable to most of us; it's the only way we would eat it. Okay, by the same token, once or twice a month, particularly in the Toronto and Hamilton areas, you get Portuguese fish and chips. It's got a little different sauce on it et cetera but it's the same basic nutritional thing. We do that. We're not trying to impose diet.

Then we do our purchasing. Most of our purchasing of non-perishables is done in bulk. There are some exceptions. We grow potatoes at Monteith and we use those potatoes. Secondly, we have our own cannery at the Burch Correctional Centre. We can tomato juice and apple juice; we do apple sauce; we do carrots, beets, sauerkraut; we do jams there. We don't grow that produce, we buy it directly from local farmers. Some of that goes to the Ministry of Health for psychiatric institutions. The rest remains within our own. Sometimes there is a transportation cost, which is difficult.

After that, pretty basically, the food wherever possible is Canadian, and obviously if you need pineapple juice there's no sense saying, "Pineapple juice simply isn't ours," or "canned pineapple simply isn't ours." We try to stay within the dietary framework of everyone in Canada and, in terms of canned goods anyway, there's very little that is not Canadian now and the market is Canadian, with some exceptions. The grape juice that is used must be from Ontario grapes, period, because it is a protected industry in other ministries. There is a grape surplus and other provinces protect their own. There are limitations, so we're not making a new policy there.

With regard to pears and peaches, because of the surplus in the Niagara Peninsula, they must be Ontarian. The other thing is, we will not accept substitutions. The tender form may say it is going to be Ontarian or Canadian, but then at the end they say, "There simply wasn't this much in stock, you have to take what you get." Whenever there is nothing Canadian, despite the wide surplus in this province, there is always Australian produce around. We will not accept substitutions. The institutions have been informed they are not to accept substitutions, that they are to send the person away and we will deal with them on the tender form.

Because our nutritionist has to plan these menus, Mr. Hall has set up some meetings between her and the Niagara canneries. I want them to meet with her on a regular basis so we will know what products from the Niagara canneries—or any Ontario cannery—

are in surplus, if they're having great difficulty moving it. Providing its not caviar, or something like that, if it's in the normal range, we will substitute that product for the menu item for the next six or eight weeks.

Fresh vegetables and so forth are generally not centrally purchased. The local institutions can buy in the surrounding areas. The superintendent has the right to buy fresh fruit and vegetables from local suppliers. Remember also we have some caterers. Where we don't run our own kitchens we put out the contract to a catering company and the catering company is to conform with our general policy. I don't want to catch Australian fruit out at Brampton, because that will be the end of the caterers.

We don't serve that many meals every day and we do not have a big impact, but, as I've said many times before, the greatest support for this ministry over the years has always come from the rural community. Most of our long-term institutions are there. We receive tremendous co-operation from the rural communities. They accept us and they tend not to get upset when we send people out to do farm labour. Everybody in Toronto gets upset every time the door of the Don Jail opens.

[4:45]

I think that as a government we can certainly set an example. I know, because of the things I have done. The federal penitentiary service, which, at least in Ontario and in Quebec, has central purchasing, is now taking a look at this type of thing, and I think it's very beneficial. Mind you, there are certain products you can't buy here. There is fresh fruit from time to time. With oranges or bananas, obviously not grown in Ontario, you have to do that. The bulk and the basics, everything else, must be Canadian, with the preference going to Ontario where possible.

I'll expand on the Burtch cannery just a little bit in terms of what we do. We are buying locally and so forth and we do some specialty products. We don't label when they're sent in bulk. Sometimes this is sent to a small place and it's only because they can't buy anything locally. I realize the difficulties the smaller canneries are in at this time; we won't be doing anything in there.

There's not much of a market for canned whole beets at the moment, but our people seem to enjoy them.

**Mr. Bradley:** For obvious reasons, Mr. Chairman, other than straight economic reasons, those—

**Hon. Mr. Drea:** I am going to be very

blunt about this. In some cases our policy costs us more money. We could buy Australian fruit and save money on the tender. That is not the object. We don't want to get into an outrageous price differential; we want to police the price differential as much as we can. The economics of it may show up in a few thousand dollars, one way or the other, but the object is preference for Ontario.

**Mr. Bradley:** I see nothing wrong in that, Mr. Chairman, because most of the members sitting here right now probably represent almost exclusively urban ridings, or essentially urban ridings with perhaps some rural areas in them, and most of us are great advocates of saving farmland and land use controls. The argument we would always get from the farmer, of course, is that it is not viable to farm in the province of Ontario under certain conditions. You mentioned fresh fruit; certainly the fresh fruit farmers constantly tell us that. It seems to me that your ministry is setting an example which we would hope other ministries would follow, or perhaps they are already doing this, by making fruit purchases.

**Hon. Mr. Drea:** It might be very interesting next year to look at the difference in food prices when we have deliberately taken that policy—and we're the only ministry I know of that has. It might be very interesting to average it out over unit costs somewhere in the Ministry of Agriculture and Food. I know they are very enthusiastic about it. Some of the marketing boards might want to take a look at it.

I think you'll find out if you have a nickel here, you spend a nickel there. It works out just the same. It's just a matter of somebody at the top putting in the policy and you conform to it.

**Mr. Bradley:** It's justified, too, from the point of view that these other countries are subsidizing their farmers to a great extent and in some fairly direct ways. We can call this an indirect subsidization, I suppose, if you really want to get to that. It's not that, it's a reasonable purchasing policy, but I am generally favourably inclined towards the policy your ministry has in regard to its purchase of food.

**Mr. Chairman:** Any further questions on the item?

**Mr. Davidson:** Correct me if I'm wrong, but does construction and maintenance also include construction of new jails?

**Hon. Mr. Drea:** No, you see, we don't



have a capital budget for the construction of new institutions.

**Mr. Davidson:** But you are involved in the drawing or tendering proposals, assessing bids?

**Hon. Mr. Drea:** Yes, but that's for reconstruction, renovations, maintenance work inside. We do not have a capital budget to construct new institutions. That's all MGS. We tell them roughly what we want and they draw us a grandiose plan and then put it out for tender and then the taxpayer pays the results. I wish we were in charge of our own destiny. We'd bring in a lot of stuff a lot cheaper.

**Mr. Davidson:** During the briefing I asked if it was possible to raise questions regarding the buildings themselves and I was told that I could do that.

**Hon. Mr. Drea:** Oh, sure.

**Mr. Davidson:** I would like to raise, if I may, and perhaps you can answer me, the subject of the Elgin-Middlesex jail, the new one, which is a beautifully constructed building, without question. I understand it cost something in the neighbourhood of \$12.3 million and I am wondering about the necessity for the entrance way to that place.

**Hon. Mr. Drea:** The foyer?

**Mr. Davidson:** Yes. I think it's absolutely ridiculous.

**Hon. Mr. Drea:** Mr. Davidson, had I been the minister at the time and I saw plans—and I don't read them very well—but if I had ever seen what that was I can assure you it would not have been built.

**Mr. Bradley:** Who was the minister then?

**Hon. Mr. Drea:** I don't really think it's fair to fault our minister. This was as the system works. We have architects who are quite familiar with the type of thing we want, because we are in a very limited field. We are building places you don't get out of, rather than places you come in to admire. At that time it goes over to the Ministry of Government Services, which has architects who break it down and who do very necessary things.

Unfortunately—and I don't care what government it is in this country, whether it's federal, provincial or your local municipal one—when someone is building a public edifice—I am talking at the professional level of the architect or the engineer—it is something that everybody wants to be remembered for, a monument. Okay. We try to tell them, "Look, this is a jail."

That foyer there is an enormous foyer. It

is probably as big as the foyer out here before the stairs. There is nothing insecure about it because the rest of the place is built around it. It was intended as a place where family and visitors could mingle around the huge tree in the hall, around the palm tree, but the tree has died twice. I could have told them it would; there is no light for it. It was supposed to be a place with seats where chaplains and family and so forth could mingle. I am sure that was a noble idea but the architect who conceived it and the people who approved it—not in this ministry—had never looked at the real purpose of it, because it was not to be a long-term penitentiary. If it were to be a long-term penitentiary for 25-year people I would say, "Yes," but this is basically a remand centre. You are going to be in and out in 10 days, 14 days, a couple of months—you are constantly on the go.

So that is why it was done, and it is also the reason behind Toronto West, the one out in Rexdale with the courtyard that everybody can look out of his cell window at. All right, if that was Millhaven or St. Vincent de Paul or some place where you are going to spend a lifetime, okay. You invest in something like that because it is of some necessity. But once again it is a remand centre. People are going to come and go quickly. People who are there in the winter don't ever see the flowers. People who get in there in the summer don't see the start of the fall.

As the minister I would like the support of the House in a total uproar the next time we build an institution like that, because I am just not going to accept that type of thing in the planning stage. It is not necessary for the type of institution we are running.

I am sure Mr. Bradley can comment on the Niagara detention centre. I am sure if we had someone here from eastern Ontario he would have some remarks to make about Quinte—one more.

**Mr. Davidson:** And Cornwall.

**Hon. Mr. Drea:** That is an old job. Quinte is a brand new one.

Once again, Ottawa was a very difficult problem. They thought it would be conducive to higher morale if instead of a wall around it there were a wire fence. Wire fences are tremendous, but the enemy tends to cut through the wire fence, be armed and rescue its friends, as has happened a number of times in Ottawa.

These are the things the architects over in MGS have to start taking a look at. These are to be very secure institutions. People are going to be there only a very short time. It's not like a long-term mental hospital or long-



term penitentiary or even a medium-term reformatory. The idea is to get you in and out. We want the court to decide your fate and at that time we can start assessing you and put you off in a place built for sentenced people rather than a remand centre.

The other things in that regard are the work programs of the inmates. If sentenced prisoners were to be left there—and with the community work orders, there probably won't be short-term people there—nonetheless they would be working outside. You don't really have the need for windows, courtyards and all of that, because they are going to be outdoors all day long. All the place is really going to be sleeping accommodation. I think sometimes architects have to take that into view. Where we have built our own, as the member knows, such as converting at Cambridge it came on stream pretty cheaply, it is very functional. I think you have been in it.

**Mrs. Campbell:** For how long?

**Hon. Mr. Drea:** It is very clean. It meets the need. It is not open yet, but it serves its purpose.

I don't think it is an eyesore to the community. I don't think it is in any way, shape, or form detrimental to the person who is going to stay there. But I think these are some of the real questions that have to be asked from time to time when designs are coming on.

I will tell you I don't know when we will be building another institution around Toronto. It depends upon a number of factors, not the least of which is that we don't have a capital budget and MGS decides. I am already being deluged by inquiries from architects, friends of architects, designers and so forth. They have ideas I have not been the nicest person in the world and really I am interfering with their designs and making them more functional. This will have an impact, so that long before the thing ever hits the drawing boards, already on the outside, are two windows, this, the skylight and all that.

As I say, if it was a long-term institution yes, but, for short-term detention it was a waste of public funds.

**Mr. Davidson:** I appreciate your comments, because it seemed a ludicrous expenditure.

**Hon. Mr. Drea:** Can we just do the palm tree bit? The palm tree cost \$800.

**Mr. Davidson:** That was a donation from the architect, I understand, who had in turn been paid in excess of \$1 million for drafting the plans.

**Hon. Mr. Drea:** I have nothing to do with that. That's MGS.

**Mr. Davidson:** I understand that.

**Hon. Mr. Drea:** I would have thought if it were a donation from any architect in the province, after my experiences with the Don Jail, the \$800 came from somewhere other than his own pocket.

**Mr. Davidson:** Another reason I raised it was that I had the opportunity to discuss the matter with the superintendent down there, Mr. Gus Kutchaw. He was quite enthusiastic about it, because according to him he was partly responsible for the design.

**Hon. Mr. Drea:** In fairness, I don't think he asked for that type of structure. He may have asked for a meeting room at the front so people wouldn't be herded into a visitor's room, where there's all the security and so forth. In no way, shape or form was anybody in this ministry—. This is the difficulty, and let's be frank about it. Having the Ministry of Government Services do all government construction I accept as a very valid consideration. It does cut costs, it's much more efficient and so forth. But I would appreciate some help in the House. We are a ministry and the type of building we are building is not like government buildings elsewhere. There have to be special considerations given. All we want and all we should have—because we're only dealing with short-term people—is a very functional building. There's a danger in making a building too attractive. I'm being very serious about this.

**An hon. member:** Some of them would want to keep coming back.

**Hon. Mr. Drea:** If they get too used to the surroundings, how are you going to motivate them? There has to be some stimulus, some motivation.

The other difficulty with that type of design is that very seldom do architects take into account the manpower required to keep it secure. Sometimes a very fancy design makes corners, angles and cuts, where you have to employ two or even three people. If they had a straight angle it would have been one person. It does nothing to improve the security per se. It does nothing to assist the inmate. It does nothing except put another burden on the taxpayer, and it must be done because the place has to be secure.

**Mr. Davidson:** When I mentioned Cornwall I was trying to relate one element to the other. The jail has been criticized very much in the past while. Are you contemplating or trying to negotiate with Government Services the construction of a new jail in that area, or

are you planning any major renovations to the Cornwall jail?

**Hon. Mr. Drea:** A difficulty in the southern part of eastern Ontario is that we have jails in Brockville, Cornwall, Perth and L'Orignal. They are all small jails. All are very old, no question about it. To knock down and rebuild any one of them would mean we would have to knock down all four of them, because you wouldn't today economically build a small jail as you did then. We would have to put in a regional detention centre such as was done at Napanee, which replaced the Belleville jail, the Picton jail, the Napanee jail and the city of Kingston jail.

Since eastern Ontario is a slow-growth area, I am extremely reluctant to take the first step that would mean that those communities would lose revenue. Maybe not Brockville, but certainly L'Orignal—it's the only game in town. Compared with Toronto it's not very much, but in Cornwall it's quite a substantial payroll. In Perth it is again quite a substantial payroll.

The only one of these four jails that really needs substantial renovation is Cornwall.

[5:00]

In the next year or so I want to see what we can do to bring it up to standard. The difficulty with Cornwall is that it's under very heavy pressure. It has to be a secure institution, because some of the more notorious escapes of our time were made out of there.

Remember that was where the gentleman threw the alpine rope over the wall and his friend went over the wall and they got on a Honda and went off on the Hydro right of way and the QPP and the OPP couldn't chase them because they didn't have anything to go on the Hydro right of way.

There have been attempts to throw revolvers and so forth over the wall. It's a very secure institution. It has to be. It gets a much heavier trade than the population of Cornwall would ordinarily merit because of its proximity to other urban areas, because people who are on the lam from one urban area tend to go to a place like that, so that that one is certainly in the cards.

Another one we may as well mention is Owen Sound. Owen Sound, again, is a slower growth area. If we knocked down that one we wouldn't be rebuilding there, we'd have to take down the Walkerton one to justify it. The Walkerton jail, while it's old, is in extremely good condition because it's never had the pressure on it in terms of an endless inmate count in the past three years, so they have been able to do really marvellous things since then.

**Mr. Bounsall:** The inmates did it?

**Hon. Mr. Drea:** Yes. The staircases in it are back to the original cherrywood of 100 years ago, because that was part of their work program, showing them how to strip and restore. You can do that where you don't have this endless pressure. Owen Sound has had a great deal more pressure, not because of its population so much, or its crime rate, but because in bringing prisoners down the police from that area find it more convenient to lodge them temporarily in the Owen Sound jail than to continue further south.

I have told the member for Grey-Bruce (Mr. Sargent)—and I've been up there twice and we've been trying to get together—that one of the difficulties there is the narrowness of the cells. This is always a problem in an older jail, because they were built to the physical specifications of the human of 100 years ago, which are not the same specifications today. There have been some construction and renovation techniques used very advantageously in the Walkerton jail to relieve that and they've worked very well. I want to take our technical people up and see if the type of construction in Owen Sound will allow that. I think we will be able to restore it.

One of the things that is interesting is that, for instance, the maintenance budget that would have gone into keeping the dripping pipes alive in the old Don Jail is now free. We can put that money into renovation, restoration and what have you. I don't want to mention them, but there are other places where I think you have to look at the jail in terms of social capital, as a steady payroll. It is buying locally, and while in Toronto 10, 12, 15, 20, or 30 jobs really aren't that much, in those places it means a very great deal.

While it might be economical and might save us a couple of thousand or something to close it down and go and build some place else, when we do we have great impact upon the court system. Remember, the court finds it much more difficult to schedule when the jail isn't next door. We found this out through studies. The police find it much more difficult because of the transporting back and forth for remands. Sure, you can tell them the cost item isn't that much, but nonetheless all of a sudden the least little snowstorm affects court appearances. The local court tends to start backing up and you get the arguments for a district court then you're really started on the road towards other things.

I must say, in terms of the institutions that I had the option of closing, I looked at a great many—and I think we would have done

quite well, probably better, if we'd closed them—but particularly in eastern Ontario, I looked at the role of the community and the social capital, so we're just going to have to simply renovate them. As I say, just because they're old on the outside, provided we can renovate them on the inside, I think it's much more meritorious to leave them in the community than it is to centralize somewhere else.

**Mrs. Campbell:** I was just wondering if the minister could tell us whether we had a fire-retardant paint in this room, or whether I could be critical?

**Hon. Mr. Drea:** Mrs. Campbell, my deputy advises me it looks dirty enough.

**Mrs. Campbell:** I was interested in the discussion which has been going on with Mr. Davidson and I wondered if we could get something of the rationale in the Simcoe closing. I don't know whether you discussed it with my colleague, but he's very disturbed about the distances to be travelled.

**Hon. Mr. Drea:** I have drawn to his attention certain facts.

**Mr. Bradley:** That's the member from that area?

**Hon. Mr. Drea:** Yes. First of all, that municipality wants us out of there. They own it. It is not like the Don; they have chosen to keep it on. They want us out of there by December 31, 1977. They have other uses for it. Mrs. Campbell, that leaves me very little option.

Also the county has been extremely reluctant for us to get into major renovations to make that institution as secure as it should be. They have informed us in writing they want us out. Our lease it up and that is it.

**Mrs. Campbell:** I see.

**Hon. Mr. Drea:** As for Kitchener, I'd like to put the ball into it this afternoon.

**Mrs. Campbell:** Kitchener is not a problem, as I understand it, but Simcoe is giving you problems.

**Hon. Mr. Drea:** I just wanted to take care of your other matter.

**Mrs. Campbell:** I'm very interested in what the minister has said about his food purchasing policy. I think it is an excellent program and I certainly endorse it. I wondered if the minister could extend his sphere of influence.

**Mr. Bradley:** Only if he runs for the leadership.

**Mrs. Campbell:** I'm not preventing that but I'm dealing with his ministry. It seems we have the old cattleman versus sheepman

business here. When he spoke of Australian imports, I wondered if there was any way he could exert some influence to get some of our farmers into the sheep business because sheep used to be raised successfully in this province. That has gone now and it has become almost an exclusively Australian exercise.

**Mr. Chairman:** New Zealand, not Australian.

**Mrs. Campbell:** Perhaps if there were some kind of influence available it might help.

**Hon. Mr. Drea:** About four or five years ago in Mr. Apps' time, the province got out of formal farming where there was livestock involved. I think that was probably the greatest mistake we ever made. It wasn't Mr. Apps' fault. We got into too expensive a way of raising livestock. We had livestock no other farmer could afford. It was a drain on the farm community and their protests were heeded. We should have gone into a much simpler system.

I am looking at the best utilization of the lands around us where there would be intensive labour involved. That's why I like the growing of food. It is labour-intensive. It is not something that can be done with a machine, at least on a small basis.

I am looking at rabbits. I have a suggestion from a rabbit breeder. The reason I'm looking at rabbits at the moment is that we have some abandoned farm buildings that cannot be reconverted except at great expense.

At Burtch correctional centre there are poultry places. They won't meet the poultry standards that are required today. At the same time, I have a lot of waste, such as beet peelings, tomato peelings and so forth, that we are literally putting into the ground outside of that cannery. We are looking into—and I think we will be doing it pretty soon—the raising of rabbits there and recycling the waste food, which is very good. We'll have the fattest rabbits going.

The question is, what are we going to do with them, because immediately here we come to that spectre again. Are we going to sell them on the open market? No, that would be unfair. We can't compete with the costs of the regular breeder. However, it is our intention to be able to produce sufficient numbers to have them slaughtered so that three or four times a year we could make that produce available for an extra Sunday dinner or something else in a psychiatric institution or somewhere else, where the budget simply would never permit the purchase of rabbit.



I would like very much to take a look at sheep at Rideau correctional centre at Burritts Rapids. We had an excellent cow pasture there. It was bottom land. It makes an asphalt farmer from the city like me almost cry to see it abandoned. It's bottom land gong right down into the little river there. It used to be a cow pasture. I want that farmed this year. It's right across from the institution.

There is also a lot of other land there that wouldn't lend itself to farming. It has too steep a slope and so forth. We could farm there, provided we were not expected to get into the Royal Winter Fair for judging—and we once were and this is where the costs came in. That was the problem. If we could get into it in a basic way, I would be very glad to do that.

One of the other things I would like to do is try to use some of our surplus land around institutions: We have some. We took over some old army camps and so forth. We got the land and we'll never use it. I'd like to be able to use it for purposes of the Ministry of Agriculture and Food; they could use the land for experimental stuff or what have you. We really don't have any use for it. It's nice to have green grass, but we really don't need it. I shall get in touch with you. If I can grow rabbits I guess we can grow sheep.

**Mrs. Campbell:** I was really not thinking so much in terms of your initiative as trying to encourage it in the farming community. Perhaps a start by you might go a long way.

**Hon. Mr. Drea:** If I show that you can recycle the waste peelings—not just peelings, what goes into the cannery—if I can show that you can recycle waste food that should be consumed by humans perhaps but will not be in our society, if I can recycle it back through animal protein and we can supplement the diet, because we wouldn't be supplanting we'd be supplementing it in institutions, I think perhaps we might want to get into this thing in other areas—all provincial institutions, not just ours, but the psychiatric ones.

In the old days they had great fights because they needed cottages and so forth. They don't need that much. Just the maintenance of those lawns is becoming prohibitive for other ministries. Somehow, if Correctional Services can do it the rest of the world feels it's very easy. Until Correctional Services does it, for some reason, it's insurmountable. We'll certainly be glad to take a look at that.

**Mr. Bradley:** Just to follow along with what you're talking about, construction, dur-

ing my opening remarks I asked if your ministry had considered the suggestion that they look at certain old buildings for renovations. Would you comment on that?

**Hon. Mr. Drea:** You were talking about alternative facilities to the Don Jail. One of the difficulties is that I don't want to get into the business of providing more cells unless it's absolutely necessary. I think that defeats us. Whether it's a brand new detention centre or whether it's an addition on an older jail or what have you, we are creating an ever bigger institution. The policy of the ministry now is, quite frankly, that we de-institutionalize. Only those should be in jail that the protection of society or the protection of themselves dictates.

**Mr. Bradley:** Let's go on the assumption that there was an institution required.

**Hon. Mr. Drea:** To be built?

**Mr. Bradley:** Yes. Instead of building a new one, you decided that you were going to—

**Hon. Mr. Drea:** We just did it in Cambridge. We didn't build a new one.

**Mr. Bradley:** You feel that this is a reasonable alternative right across the province?

**Hon. Mr. Drea:** Sure it is. The Cambridge facility would not be done now. I don't mean necessarily in Cambridge, but I mean an alternative to the Kitchener jail; it would have got another lease on life.

You have to take advantage of the facilities. One of the things we've been doing, particularly in the smaller institution where the governor's house in the old days was right next door, every one of those governor's houses has been converted—our people don't live there any more—it's been converted into office space or non-secure space, which frees up more space in the old institution. That's your biggest problem, trying to get a staff room. There isn't any space in it. We have been doing that pretty constantly.

If you can take over a building—and hopefully I'll be taking over some in the next couple of weeks, older buildings, or at least not new—where we can convert, I think (a) it saves money and (b) it provides us with a practical work training program for inmates. Rather than learning masonry by the book, where employers say, "What have you ever done?" we'll give you a picture—not with your face in it, but here is what you have done. This impresses employers. I think it's a good idea.

As to what you were raising yesterday about the Don Jail, the conversion of warehouses, right now that would be relatively

impossible, because the facility we need in Toronto—and it will be met in downtown Toronto with the new Don or the Toronto jail—has to be a very maximum security institution.

I know in the United States they tend to take a lesser building and convert it. There's a pretty fundamental difference between their security and ours. Theirs is based upon the institution; if the correctional officer on line isn't armed certainly the rest of the institution is armed. Ours relies on the strength and structure of the building because we aren't armed now, nor are we ever going to be, at least in my time. That poses some difficulties.

[5:15]

In terms of minimal security, where you're talking about people on short sentences who wouldn't walk away under any circumstances, we're looking at portables. This type of thing we can move around until we have to build something. Then we can use the portable again to meet a problem in another area.

The first two reformatories we got our hands on were Burch and Rideau. Both were army and air force camps; we immediately began converting. We are going to have to reconvert now. They've outlived their usefulness. They were built by the army for five years, we've kept them. We've got work training programs there, and it's relatively simple because there is minimal security; there's not even a fence.

**Mr. Bradley:** Depending on the kind of inmate you have, I suppose, another advantage with the older building is its location fairly close to next of kin and public transportation.

**Hon. Mr. Drea:** This is the other reason I don't like closing the community jail. It was built next to the courthouse because, even if it looks odd geographically, that was the most convenient place for everybody in the county to gather. You lose a lot when you centralize as we did at Napanee, at least in terms of the ability of people to get there. Ottawa isn't too bad. It's a little out of town. It's inconvenient for that type of thing. The closing of the old Don is going to be a great inconvenience, not so much to the east end, which is relatively easy to get to by subway or bus, but to the one in Rexdale. That's a difficult place to get to by public transportation. Twenty years from now it will be in the centre, but at the moment it's difficult.

The other advantage is it's much closer to the court, and the closer the jail is to the seat of justice, the better the scheduling in the court.

**Mr. Davidson:** Just a brief question: Could you expand a bit on the use of portables, to give us some idea how they operate and how many people they would hold?

**Hon. Mr. Drea:** First, there is some guy in North Bay who doesn't like me, and doesn't know what I'm talking about. He's a manufacturer of portables, but he doesn't manufacture the type we want. He sold us a couple for Mimico, but they're for minimal security inmates. We made it very clear that in the Barrie situation we needed maximum security cells. He says he hopes I made a mistake. I haven't made a mistake. The one we're looking at for maximum security is made by Johnson Doors in the United States. They are a security firm. They make most jail doors, bank doors, et cetera.

It is made of very heavy steel, generally in configurations of eight—four cells on each side—plus a day room for the guard. It's entirely self-contained: It has a heat pump which supplies the heat, the hot water, and the air conditioning in the summer. It can be used in conjunction with existing facilities. In each cell there is a window looking out; the cell doors face inside. I have a drawing here you might like to look at. I'll have some pictures we took in Chicago available by the time the estimates are round next week.

That doesn't mean it's going to be built in the United States. We're trying to dicker with them, because this company likes to lease them by the day rather than sell. We would like to see if one cannot be made here on the grounds we would be buying or leasing. Other provinces would be interested, because all of us have the same problem. From a sales point of view, being manufactured here and being out in the Barrie yard, where it snows and blows—the whole bit—might be advantageous to their future operations in Canada. Certainly they would make the same profit on it, because it would be made here under licence.

So far, only California and ourselves are interested. Our movement into it would certainly have great repercussions in the United States, because we are recognized as one of the top two or three systems. So we are very definitely interested. We think we have some leverage on the manufacturer; besides, we deal with them anyway, because they have agents here in other fields.

I understand something has happened since I last inquired. The steel units will be manufactured in Canada with some components being imported. The firm contacted us today. That makes their proposition much

more attractive because the steel will be coming out of either Stelco, Dofasco or Algoma and it will be fabricated here. Our market is attractive.

The other thing we want to check very carefully is that while they say their insulation meets Ontario Building Code standards we want to make absolutely sure it does. If it's going to be manufactured here we can insist upon a different type of insulation, because we would certainly want to be in conformity with the Building Code, because we will lease these for a long time.

This may well be the answer, because they can be fitted very conveniently. They can build them in almost any dimension and they can stack them tier on tier if they have to. They've got arrangements for that with staircases. This may very well be the method of renovation of many of the older jails, because you could accommodate the population and give yourself a good six months of working on empty cells. It's an awful lot easier doing it that way than it is trying to clear a corridor out in the daytime so the people can do something and then having, once again, to commence the next day. I will have some photographs for you next week.

**Mr. Bradley:** It seems reasonable, because you're liable to be faced with the same situation that the Ministry of Education is, that of declining enrolment.

**Hon. Mr. Drea:** That's the other thing. Statistically, crime is a young person's game. By and large, that's the bulk of it. Demographically, we're getting an aging population. Just as the public school system is facing a lack of babies to come in to be educated, we are facing a lack of babies who didn't make it in school and have gone out into something else and are now coming to us.

A jail is virtually impossible to convert, although I must say the next time we build one I'd like the architects to take into account that maybe 25 or 30 years down the pike, by the removal of doors and so forth, it could be turned into some other type of institution by the substitution of wooden doors or what have you; to lay it out in such a way that it could be used for another purpose, other than a museum or something like that. I'm talking about another type of social institution.

If we build it secure and safe that's fine, because it's just as much an advantage to them if it's fireproof and so on. If we build it in such a way that allows the removal of the ultimate security, which is the cell doors and the electric doors, and lets you

leave the building intact, some other aspect of government or the municipality or the community could use it.

**Mr. Bradley:** An innovative businessman could make an interesting restaurant out of it.

**Hon. Mr. Drea:** Mr. Bradley, every county jail in Ontario was used, first of all, for prisoners; secondly, it became the first old age home because they were confined there for lack of anywhere else to go. The old records going into the assizes show that. It was the first home for the retarded, because they just marked them with idiocy and threw them in the local jail after convicting them on a technicality of vagrancy A, no visible means of support. They were the first mental institutions, once again, under vagrancy A, because there was no other place to put them.

They also served a purpose where people were executed—quite properly so, the law provided for it—where people were lashed—quite properly so, the law provided for it. Until 20 years ago there was a rock yard in every institution where rocks were put and the inmates split the rocks. I'm just damned if any of them should be a restaurant with a liquor licence. I think there are other facilities in town they can build or convert.

**Mr. Bradley:** Good for you.

Item 3 agreed to.

On item 4, personnel services:

**Mr. Bradley:** I'll pass.

**Mr. Cureatz:** I recall a question was asked in the House a month ago about—now let me get the term correct here—

**Hon. Mr. Drea:** Ladies?

**Mr. Cureatz:** Yes, female correctional officers.

**Hon. Mr. Drea:** That's right.

**Mr. Cureatz:** Was there some great concern about that? Could you just refresh my memory on that?

**Hon. Mr. Drea:** I suppose with the introduction into the world of anything new there is a concern that the world will come to an end.

We introduced female correctional officers almost two years ago. The reason I use the term "female correctional officers" is that we are talking about a female who is on line. She is not a matron or what-have-you just looking at female prisoners. She is a full-fledged correctional officer. We introduced them to our institutions as full-fledged correctional officers—not somebody who



greeted you at the door and wore a uniform—not an auxiliary.

For some reason, every time the professional female in our society—and by professional, I mean someone who has been specifically trained for an occupation—enters into what has previously been an all-male domain, the question of bathrooms arises. I was discussing this with a women's group today. I do not understand why the bathroom gets to be the focal point.

I can recall spending two years in the last ministry I was in getting the first female liquor inspector in the province. The argument always was the bathroom. I said, "Well, what does the male liquor inspector do with the female bathroom?" "Well, he goes in there before it opens." And I said, "Don't you think she'd do exactly the same?"

There is no question that an element of privacy is lost when you are institutionalized. I don't care whether you are institutionalized in a hospital or what. The toilet facilities are shielded in institutions, shielded to the degree that there is an element of privacy, but nonetheless it is not a closed room for rather obvious reasons. The showers have curtains on them. They are shielded, but obviously the room has to be left open and there has to be supervision.

Our institutions are not dealing with short-term people. They're dealing with everybody from an homicidal maniac awaiting trial to somebody who didn't pay his parking tickets. You have to take into account the former rather than the latter.

I don't understand what the fuss is. With a nurse, who is trained for her occupation and is accepted as a professional in our society, we don't worry too much about what she sees. We are more concerned about what she does and how she does it. We are not concerned about the psychiatric nurse who sees the very worst in the human condition—far worse than anything I have seen, believe me—or the geriatric nurse—far worse. Okay, that's accepted there. But somehow the introduction of the female correctional officer into the jail system has everybody topsy-turvy. Probably it's because we're the first in Canada.

**Mrs. Campbell:** Not everybody.

**Hon. Mr. Drea:** Well, an element. It's my position, and I think the record of the female correctional officers that we have will bear this out: They are professional women. They have been trained for their occupation. They have accepted the responsibility and the challenge and this is 1977. Besides, if I were to let them go on the grounds they were

females, I could be hauled into court; I'm breaking the law.

We're hiring on the basis of merit and talent. I know there are some males out there who feel they'll never get a job now, because we'll obviously hire females. We hire on the basis of talent and ability and so on. If the male applicant has greater talent, ability and so forth than the female applicants, he gets hired.

It's interesting that no other Canadian province has a female correctional officer, although there's a case in Alberta which I don't want to discuss because it's still pending. It revolves around the Human Rights code and involves a female correctional officer who was brought on and the grounds for her departure. I guess it's a matter of a court case by them.

**Mr. Bradley:** Are there more attempted physical assaults on female officers than male officers?

**Hon. Mr. Drea:** Mr. Hughes, you're the director of operations.

**Mr. Hughes:** Could I hear the question again?

**Mr. Bradley:** Yes. Are there more attempted physical assaults on female correctional officers than male officers? For instance, a person feeling that person might be weaker, therefore attempting an assault?

**Mr. Hughes:** No, Mr. Chairman, to my knowledge we've not received any reports of physical attack on a female other than the incident at Thunder Bay last year. I think she acquitted herself very well. That particular female was instrumental in taking care of a nurse who was out of the control area and a nun who happened to be visiting the jail when the inmates seized control. She put them away and told them what to do, barricade themselves in. She went up to the female wing and advised the female correctional officer up there to lock herself and the two females in the cells and to block the lock.

[5:30]

As it turned out, the inmates did go up there but couldn't get to either the correctional officer or the female inmates. Then she went downstairs and saw three inmates attacking one of the officers, so she jumped on the back of one of the male inmates. They treated her with great respect. They handcuffed the male staff but left her entirely alone. They said to her: "Sit down and behave. We don't want to hurt you."

Our experience has been rather the reverse. We had an instance where some inmate got

a little fresh with one of the female correction officers, one of our ATCs, and she promptly and immediately decked him. The inmate was really surprised.

**Mr. Bradley:** And embarrassed.

**Mr. Hughes:** I think the girl was 98 pounds and he was 170 pounds. If those two instances can illustrate the success of our female officers, I think it should be said they are a success.

**Mr. Bradley:** The minister may want to comment on this aspect. Are the complaints from the male prisoners widespread or are these isolated instances we're running into?

**Hon. Mr. Drea:** I know of only one and that one keeps reverberating around, although the person has long since left that jail, the one in Kitchener. I think the public has a misconception about our correctional officers. Unlike police departments, we have no physical standards. People tend to think we hire the middle of the Argonauts line. We don't.

**Mrs. Campbell:** Try some other line and not the Argos.

**Hon. Mr. Drea:** People still have the stereotype that the correctional officer is the size of a policeman who can handle people with his bare hands and so forth. As I said before, the buildings and the cell corridors et cetera are designed so that if anything does happen it can be confined very quickly. There are buttons and so forth which when pushed everybody immediately comes to see what the problem is. It works out.

Conversely, at Vanier there have been male correctional officers and male supervision there almost since the day it opened. Mr. Thompson blazed some paths there. I think the world was somewhat suspicious of Mr. Thompson when he first went in as the male head of a female institution. Female correctional officers work all three shifts, including the sleeping shift. Male officers at Vanier do not work the sleeping shift. We had a pilot project and there was no difficulty.

Vanier is a little bit different to the traditional all-male type of jail because, after all, in a traditional type of jail if an officer wanted to do something, first of all, he would have to open up the cell door because there are cell doors and people are locked in. At Vanier, of course, they are not. It's a door.

Quite frankly, male correctional officers are not prepared to accept the same challenges as female correctional officers. I think that's natural because females are penetrating into what was reserved to males and, therefore, they will accept the challenge and they don't consider it. There is a reluctance by male correctional officers to be in that situation.

As I say, we did a pilot project on it. Nothing happened, but there is still that reluctance and, if there is that reluctance by people who have to work in there, there is no sense doing it just to show it can be done. I'm sure it can be done, but as long as there is that reluctance by the professional people involved themselves, then I just don't think it is worthy of pursuit.

What we do with Vanier in the future, which we're going to discuss in other votes, might very well be the end of that system, because we can make certain arrangements.

If you want to talk about a female who has been in there all along, the medical stuff in most jails with the exception of what is done by the doctor on call is handled by the nurse. She is back in the cell corridors handing out the prescriptions and pills. She's got to be very careful. Some of these guys have a tendency that they want her to put the pill in their mouth because they want to see if they can take off too. The nurses have been doing that for years. Nobody equates that with the end of the world.

Frankly, I think the presence of female officers is a very valuable thing because the act has been cleaned up. By the admission of superintendents who didn't want them, the language is better. The personal hygiene tends to be improved a little. It is a humanizing factor, there's no question about it. It is also the real world. There are females out in the real world, and you are going out to it in a very brief period of time. You might as well get used to the females.

On the basis I think it's working very, very well. I don't know why others don't do it. It opens up a great area of talent you can bring into the system. There are advantages in having a number of female correctional officers. They can be used in small jails. Instead of having someone on call if a female prisoner comes in—and they don't come in that often—you just switch them right over.

**Mrs. Campbell:** I want to commend the minister. I didn't respond when the matter came up in the House—

**Hon. Mr. Drea:** In fairness, it is not my policy. The ones who should be commended are my predecessors and Ms. Margaret Beavan, who has been the women's advisor to the minister. She showed it could be done. A middle-aged lady, she went on line at Millbrook, which is our toughest place, and did the overnight shift for a week. She showed that the world wouldn't come to an end and convinced even the diehards. So, Ms. Beavan deserves the credit in this regard.

**Mrs. Campbell:** Is she back?

Hon. Mr. Drea: Yes, she was ill, as you know.

Mrs. Campbell: Is she well?

Hon. Mr. Drea: Yes, I met her this morning.

Mrs. Campbell: Good.

Hon. Mr. Drea: We have new ideas.

Mrs. Campbell: About the bathroom business, I once wrote an article called, "The Washroom Syndrome." It was so bitter that I didn't send it anywhere. That was the excuse used by the University of Toronto not to hire female professors.

Hon. Mr. Drea: That's right.

Mrs. Campbell: It has gone through our whole system, and I am very, very pleased this ministry has not succumbed to that type of argument. I want to commend the ministry then, rather than the minister, for this program. In the past, women in local detention were in an open area. The male police officers went in without any caution. All the facilities were open, and that was just A-Okay. I never understood it.

The only thing that ever caused me concern was as a result of the situation which occurred in British Columbia. She was not a correctional officer per se, but a professional person. I don't think the status was quite the same. It was really concern for safety, nothing else.

I am very, very pleased to be able to speak out in wholehearted support of the ministry's readiness to view people on the basis of talent and not on any of the stereotypes in our society.

Mr. Chairman: Maybe, Mrs. Campbell, you could recycle your article to the Ontario fire marshal.

Hon. Mr. Drea: I would like to see a copy of it, quite frankly, because I am getting fascinated by this endless repetition, "bathrooms."

Mrs. Campbell: We had it during the entire time I was with the city.

Hon. Mr. Drea: It's still there.

Mrs. Campbell: We would look at some of the people at the university, the top spokesmen, and it was always, "Well, you know, we really do want to have women professors." But the cost of putting in bathrooms was what determined the policy in education with the University of Toronto. I shall look it up.

Hon. Mr. Drea: Thank you.

Mrs. Campbell: It was a very bitter paper. I don't like being that bitter, but it irritated me beyond all measure that that

should hold women back from being able to participate fully in our society.

Mr. Davidson: We too would like to congratulate the ministry for this move, and certainly hope that in the future they will continue to carry out that policy.

One other thing; I don't think it's necessary for me to ask, but I would like to get an answer because I am not certain in my own mind. Is the female correctional officer paid accordingly with the male officer?

Hon. Mr. Drea: Yes, that's why I used that category. Remember, most of the matrons in the smaller jails are casual. They are on call. They are only there when there is a female prisoner. That has been, I suppose, a necessary thing over the years, because in most jails you'd only have a female prisoner the odd night. I am not enamoured by it because the petty female offender, when she does receive a local jail sentence in a smaller town, usually receives a much harsher sentence than the petty male offender. Your friendly neighbourhood male drunk will get three days, but your friendly neighbourhood lady with a drinking problem will get 90, in the hope she will be shocked out of it.

As much as possible I would like to bring the full-time, trained female correctional officer into that milieu, because the female offender in the small jail really gets cruel and unusual punishment. Because she's the only one there—of course, she is segregated—she plays cards with herself, she looks at TV by herself and so on. I think at that point the more professional help we could have around that might induce her, when she gets out, to get counselling—the thing that really should have been done by the courts, because we can't do anything—might be beneficial.

The pay is right on line, the same.

Mr. Davidson: I would just like to say that we're certainly in agreement with the policy. It's a little difficult, as you say, to understand the attitudes of some people with regard to the policy.

Hon. Mr. Drea: I remember, in this building, there was a great uproar about—it was before Mrs. Campbell's time; I think it was when Mrs. Birch and Mrs. Scrivener were elected—the members' lounge, when they had to create a female shower there and they were appalled. I remember that. I don't think either of the ladies ever had any need to use the shower, but they claimed it because there was a male shower—and I don't know



anybody who's used that lately—but that was a great source of controversy around this building.

**Mrs. Campbell:** We still have only a barber though.

**Hon. Mr. Drea:** Mrs. Campbell, I'll get a work order for somebody from Vanier. But, of course, that'll probably horrify the institution as well.

**Mr. Chairman:** Item 4, any further questions? Mr. Lupusella.

**Mr. Lupusella:** If I may pursue the issue further in relation to the promotion of those female correctional officers. Can the minister explain to us what possible prospects exist for promotion of female correctional officers?

**Hon. Mr. Drea:** Well, so far they've reached up to the level of deputy superintendent. It will probably flabbergast Ontario but within a few years, based upon their experience—remember they haven't been in it very long—you will have a female superintendent of your local jail. I suppose everybody will be horrified, but that is inevitable.

But as I say, they have reached the level of deputy superintendent, which is a very important job, and there is nothing impeding them. There are no physical requirements for a position in this ministry, and therefore there is no physical impediment in their way. As to how far they go, how fast they go and what they do, that is purely on the basis of their merit, experience, and so forth.

**Mr. Lupusella:** Is this the maximum level which they can reach?

**Hon. Mr. Drea:** No. There is superintendent, then they can go on to superintendent of a small jail, superintendent of a larger jail, superintendent of a correctional centre et cetera, but certainly right up to the top of the management level.

You know, the funny thing is if they appointed a female Minister of Correctional Services the world wouldn't be upset. But if they appointed a female deputy minister or a female superintendent! I don't really know where the demarcation takes place in the public mind, but certainly there is no impediment to promotion.

If you are in this field and you start putting in physical requirements, that is where you start to get into the impediment bit, because they'd say, "Look, you couldn't do all of the work, therefore you can't run an operation where all of the work is involved," so we're out of that one.

**Mr. Chairman:** It's 5:45 and we do have a vote in the House.

Shall item 4 carry or would you rather have it carry over until 8 o'clock?

Item 4 agreed to.

**Mr. Chairman:** We will reconvene at 8 o'clock.

I would remind the members that according to my calculation we have seven hours and 10 minutes left in these estimates. You may wish to pace yourself accordingly.

The committee recessed at 5:45 p.m.

## CONTENTS

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Thursday, December 8, 1977

<b>Ministry Administration Program .....</b>	<b>J-33</b>
Main Office .....	J-33
Financial Services .....	J-36
Supply and Office Services .....	J-41
Personnel Services .....	J-51
<b>Recess .....</b>	<b>J-55</b>

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Campbell, M. (St. George L)  
 Cureatz, S. (Durham East PC)  
 Davidson, M. (Cambridge NDP)  
 Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
 Lawlor, P. D. (Lakeshore NDP)  
 Lupusella, A. (Dovercourt NDP)  
 Philip, E.; Chairman (Etobicoke NDP)  
**Ministry of Correctional Services officials taking part:**  
 Thompson, G. R., Deputy Minister  
 Algar, M. J., Assistant Deputy Minister, Planning and Support Services  
 Dombek, C. F., Director, Legal Services  
 Hughes, H., Assistant Deputy Minister, Operations









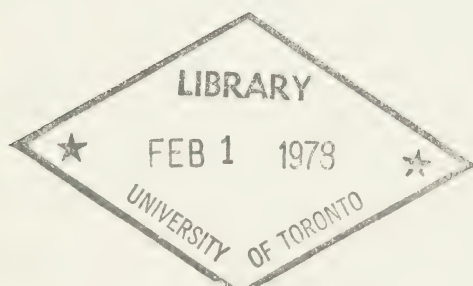
No. J-3

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Justice Committee

Estimates, Ministry of Correctional Services



### First Session, 31st Parliament

Thursday, December 8, 1977

Evening Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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# LEGISLATURE OF ONTARIO

THURSDAY, DECEMBER 8, 1977

The committee resumed at 8:12 p.m.

## ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (continued)

On vote 1501, ministry administration program:

**Mr. Bradley:** On a point of order: if I may seek the permission of the committee and of the chairman to allow Mr. Miller to explore with the minister for a few minutes a matter we discussed this afternoon. Mr. Miller did not have the opportunity. That is the matter of the closing of the Simcoe jail.

**Hon. Mr. Drea:** You mean after I promised to do it for you tomorrow when you were going to be here. Yet in the storm you came tonight. That is loyalty. Sure, no problem at all.

Before we do, though, I would just like to point out to Mr. Davidson when the new Waterloo region detention centre or jail opens there will be at least one female sergeant there.

**Mr. Davidson:** I'm gratified to learn that.

**Hon. Mr. Drea:** I just throw that in. I didn't know that until after we left this afternoon. In light of what Mr. Lupusella wanted to know—were they really advancing or staying at the level—there will be at least one. It depends upon how the seniority works.

**Mr. Davidson:** Mr. Chairman, we have no objection to reverting to item 4.

On item 4; personnel services:

**Mr. G. I. Miller:** I do appreciate the opportunity to discuss the closing of the Simcoe jail. I appreciate too the fact that we have had a few discussions with the minister—he has been very co-operative and I appreciate that also. I intended to bring it to the House on Tuesday and we ran out of time, and the question period didn't last that long today because of the fact there were so many statements.

Since your announcement of the closing of the Simcoe jail last Friday, Mr. Minister, I wonder if you have given any consideration to providing a facility in the region of Haldimand-Norfolk. As you are aware there is a courthouse at Cayuga, there is one at

Simcoe and the London detention centre is 50 miles from Simcoe. The Thorold detention centre is 50 miles from Cayuga, and from Simcoe it is nearly 80 miles to Thorold.

I have discussed it with the local police, the OPP, the regional police and they were quite concerned with the fact that they do have to transport these inmates that distance. It is going to be time-consuming—at least three hours. They indicated that they have to send two officers with each inmate. It seems that it is a backward step in the court proceedings that we have to put that much time on the road.

I did have the opportunity of visiting the Simcoe jail on Sunday evening. There were 31 inmates. I believe you were there the week before or within the last couple of weeks.

**Hon. Mr. Drea:** Some time before.

[8:15]

**Mr. G. I. Miller:** I realize it is an old jail. I realize that the town of Simcoe would like it removed at some point in time. I don't know whether they are really pressing for it now or not. I discussed it with the administrator. I wasn't talking with the mayor. I haven't been able to get in touch with him. I know they have rebuilt the old court house into one of the finest city halls in Ontario. In fact I think they are getting an award tomorrow. An award is to be presented by the Lieutenant Governor to the architect for the design. So I can understand they would like to have it removed.

But in moving ahead I question the fact that we get into larger centres where you perhaps are open for more problems. For the efficiency of the total operation it seems to me that a facility near each individual region would be more practical and less time consuming. The OPP indicated that it is a little hard on morale, when they have to provide this transportation for the inmates. When they are doing that they cannot do the other duties they are supposed to. They indicated they are running a budget that is on restraints—which is not a bad idea in my opinion at this particular time.

**Hon. Mr. Drea:** Do you think I'm not?

**Mr. G. I. Miller:** I just want to point out the feeling of the local police. I think they

were just expressing an opinion, and I am going to express it to you. If the OPP are not specifically under your direction I would like it to be brought to the attention of the proper minister.

**Hon. Mr. Drea:** Yes I will. First of all—and if you will kindly keep track for me because you raised a number of items.

**Mr. G. I. Miller:** I have a couple more.

**Hon. Mr. Drea:** You mean there are more?

**Mr. G. I. Miller:** I might have a couple more.

**Hon. Mr. Drea:** Let's just set the record straight.

The corporation of the town of Simcoe—is Mr. Gilbertson still the administrator?

**Mr. G. I. Miller:** That's correct.

**Hon. Mr. Drea:** This letter here goes back to 1974. I will just read you a paragraph. I would be very glad to give it to you. "Their report has been presented to the council of the town of Simcoe who have now determined to demolish the courthouse building and erect a new municipal head office building on the site and possibly renovate and retain two small buildings for municipal purposes. It is hoped the demolition of the courthouse building which is connected to the jail building and the erection of a new building thereon will not interfere with the jail operation which it is presumed will cease upon termination of the lease date of December 31, 1977."

We were not welcome in that municipality, Mr. Miller. Here is a letter from December 10, 1974—just so there is no political interference. This is from your predecessor Mr. Allan. These are to the minister of the time. "Mr. Judd, who is the major"—Is he still the major?

**Mr. G. I. Miller:** Right.

**Hon. Mr. Drea:** "Mr. Alf Judd, the mayor of the town of Simcoe, has spoken to me again, which I think is the third occasion, regarding the date at which they could look forward to your vacating the jail premises." It goes on. "My recollection of our discussion is your lease has approximate two years yet to run." It was three. "However, I am sure they would appreciate your giving them some indication of your plans in this connection."

We have told them, but nobody came forward. You were the first person who has come forward and said—I don't want to put words in your mouth and I am not sure you are suggesting that the municipality wants the jail—they want us out. I didn't make this decision, it was made for me. How can I

go on with the municipality—it is not like Toronto in 1968, or some other ones when we assumed responsibility and they turned over the entire premises to us. In this case they retained control. They want us out. That is point number one. I think you will have to agree with me that that is somewhat significant.

**Mr. G. I. Miller:** Yes.

**Hon. Mr. Drea:** In terms of another facility for the region of Haldimand-Norfolk, I am prepared to listen to a reasonable proposal. Okay?

**Mr. G. I. Miller:** Yes.

**Hon. Mr. Drea:** I think that was your second question.

**Mr. G. I. Miller:** That's right.

**Hon. Mr. Drea:** Obviously, the reasonable proposal will not preclude the closing of the Simcoe jail. We have to be open. We are talking about in the future and in the short term.

As I said today to the members, one of the difficulties—and mind you it was in the context of eastern Ontario, but I think it pertains to your area because of the geographic considerations that you have raised—I don't like to close institutions like that. It does reflect in the scheduling in the courts and loads on the police and a lot of other things.

I am not going to ask you just who it was was from the OPP who gave you your information. But it sure is not the headquarters or the high command, because they were consulted. The operative rule of thumb that was made, because of the fact that there is the wide geographic differences—and it's not just the area around Simcoe; you can go all the way down to Lake Erie and all all the way up; it's a wide area—is that the local police department—whether a municipal force is involved or whether it is the OPP—has the option to take the person charged either to the nearest regional detention centre or the nearest jail.

They have the option to go to the Niagara regional detention centre if it is around Dunnville and that is a very short distance. I realize it's a long distance to come to court but it's just as long to drive the prisoner from Dunnville up to be held in Simcoe and then taken over to Cayuga as it is from Dunnville over to Thorold and then bring them back.

In the case of the western extremities of the region the London detention centre is available. It will have to take those people. There is the option of the Hamilton detention centre—the new one which will be opened in

the middle of January. In some cases that is extremely close.

I know that the court is going to be in Cayuga. There is also the option of Brantford. There is also the option of Guelph, depending upon the nearest possible location for the police department. I want to keep—not so much the costs but the time—down. It's not just taking the suspect at that time to be formally charged and held, it's also the weekly remands.

I know exactly what you are going to say—that the remands go on week by week and it is a transportation item. But that is not just in your area. There is now a task force on the whole matter of the transportation of prisoners that is under way. It involves three ministries—ourselves, the Attorney General (Mr. McMurtry), the Solicitor General (Mr. MacBeth). The Solicitor General has control over the OPP directly and the police forces pretty directly through the Ontario Police Commission.

I want to raise another difficulty. It arises from the fact that the bench in this province is stubborn and will not accept the concept that there is a place for the ordinary weekly remand, and that is where there is going to be no trial. It is just what is required by law and quite properly so, that the person be charged in public again. The old "produce the body" to prove that there really is somebody. If it wasn't for that, we wouldn't be into this difficulty.

As I understand it, the law provides that remands must be held in public and in a courtroom. A courtroom is loosely defined as anything with a sign on it that says "Courtroom" and allows the public, including the media, free access to watch the proceedings. I have been to the bench indirectly in the judicial district of York about some of the remand problems we are going to face with the closing of the Don Jail and the transportation of remand people back from the east and from the west. Would they consider us providing a room with free access to the public and all the other amenities, as well as a place where the media, if they chose, could come in unobstructed and watch the remand proceedings. Then the proceedings would be heard by a junior judge.

They are being very stubborn about this. This is one of the things, quite frankly, that we are going to have to face up to. When we originally had the METFORS unit, the forensic unit arranging for psychiatric assessment, which is at the Queen Street Mental Health Centre, judiciary were a bit stubborn, but they have now come around. Instead of having to take the person under psychiatric

assessment, to the downtown courts every Monday or Tuesday, or the seven days, there is now a room in there, it says "Courtroom," where they do weekly remands, so it does not interfere with the assessment.

One of the solutions is, there has to be a more expedient method—not in terms of justice but in terms of cost of the weekly remand. I think this is what you are getting at. The transporting of the suspect in the first instance may be necessary for a lot of reasons. I don't think anybody begrudges the expense, or the time, or the police officers being on duty. But transporting there week after week, when everybody knows, in fairness—both the defence and the Crown know—that it isn't going to proceed as it is for a remand. I am hopeful we will get the co-operation of the bench that this kind of remand can be done in other than the main courts.

First, it will free up some courtrooms; it will free up some time for the normal administration of justice. Second, it will be of great benefit to the police; they won't be tied up transporting. Third, it will be of considerable benefit to us; you can understand us having to get inmates ready the night before, and that morning, to be taken to court and some aren't, some are, etc.

The other thing, when your local OPP talk to you—did they talk to you?

**Mr. G. I. Miller:** No, they didn't talk to me, I talked to them. I wanted to make that clear. I don't want to put anyone in the wrong light here.

**Hon. Mr. Drea:** Mr. Miller, I am not putting anybody in the wrong light, but I am sure it wasn't a one-way conversation.

**Mr. G. I. Miller:** No, because I was concerned—

**Hon. Mr. Drea:** I wonder, did they tell you what happens on January 7 when we take over the transport of the hard prisoners?

**Mr. Hughes:** January 9.

**Hon. Mr. Drea:** Did the OPP tell you one of the reasons their minister, Mr. MacBeth, was able to avoid the layoffs that at one time were mentioned? It was because the Ministry of Correctional Services has taken over from the sheriff's department the transport of federal prisoners and remand prisoners. We now assume full responsibility.

The money that the Attorney General saves by not having to put on two, or three, or four sheriffs transporting these persons, doesn't come to the Ministry of Correctional Services, it is paid over into the ministry of the Solicitor General, so they won't be faced with the constraints of the layoff of OPP.



They will be able to make up that matter in salary. Did they tell you that?

**Mr. G. I. Miller:** No, Mr. Minister, I am not the custodian. It's just, as an elected member, I want to make sure our money is spent well. I feel it is my duty to keep in touch. I realize they have to answer to the top; they weren't critical of you, but made some suggestions—which I am relaying to you—to make the system work more efficiently. I am not criticizing you either, sir, I am relaying to you the information in the hope that we can find a solution to make it work better.

**Hon. Mr. Drea:** I didn't think you were criticizing me. You are trying to save some funds that, very necessarily, should go into police operations, both for the prevention of crime and the apprehension of criminals afterwards. If they made specific proposals to you, or some ideas, and I think it would be ideas—

**Mr. G. I. Miller:** I like that phrase much better.

**Hon. Mr. Drea:** —I am prepared to meet with you to discuss those. I will have my staff evaluate them to try to find something that would improve, or at least maintain, the scheduling of the court operations in Cayuga without tremendous manpower expense to police forces and others. All I wanted to point out is, there is another side to all this. This isn't something I decided on Wednesday and announced on Thursday. We have looked at this very carefully. One of the things that concerned me is that the whole of Haldimand-Norfolk is a very wide geographical area.

[8:30]

**Mr. G. I. Miller:** That is correct.

**Hon. Mr. Drea:** If you want to meet with me tomorrow or Monday, informally, and give me those ideas—I'm not asking for attribution as to where they came from—if you want to lay them out I will have my staff very, very carefully evaluate them.

I would feel more comfortable if I could improve, or at least keep at the present level the efficiency of the court system there. I would reiterate that in the long run the only answer to this is getting at the root of one of the problems, which is the endless transportation of remand prisoners to a high court where necessarily they must be tried, due to the nature of the offence.

If it was only provincial court, that would be relatively easy, but the fact is that high courts, both the county and supreme, still exist only in geographic centres. It's not just a problem in Haldimand-Norfolk; it was a

problem even when the Simcoe jail was there. It's a problem in eastern Ontario; it's a problem in northern Ontario; it is even a problem in Metropolitan Toronto—

**Mrs. Campbell:** It's a problem in Ottawa.

**Hon. Mr. Drea:** —and Ottawa—well in Ottawa there are two courts, as I understand. So, do you want to meet with me tomorrow or Monday, whatever is convenient?

**Mr. G. I. Miller:** I would appreciate that.

**Hon. Mr. Drea:** I have an open mind on the subject.

**Mr. G. I. Miller:** There is one further point. There is a concern over jobs in particular areas such as White Oaks and Glendale, which is under ComSoc now, but Glendale is under your ministry—

**Hon. Mr. Drea:** Yes, it is an ATC.

**Mr. G. I. Miller:** Yes—which is in Simcoe. There have been rumours that there could be some changes there and it makes the staff uneasy. They have been to me saying I should be criticizing you. I am concerned for these people and their jobs and I relay that to you and I hope they will be treated fairly no matter what your plans are. Have you got any plans that can be announced at this time about Glendale or not?

**Hon. Mr. Drea:** You have already asked me in the House.

**Mr. G. I. Miller:** I know that. That is correct.

**Hon. Mr. Drea:** I am not faulting you for doing that.

I can truthfully say the Glendale institution and its staff will be at the present site a week from now, a month from now, six months from now, a year from now.

**Mr. G. I. Miller:** All right.

**Hon. Mr. Drea:** I don't like people to worry about their future and I think, Mr. Miller, I should get some credit. I have been very fair with people. I don't like people worrying and I know they do. I know there are rumours all over the province—every place I go I hear: "Are you closing us?" After I say "No," the crowd disappears.

**Mr. G. I. Miller:** I appreciate your response.

**Hon. Mr. Drea:** That is my commitment.

**Mr. G. I. Miller:** There is just one further thing again about the need when you make a move such as closing a jail. I will agree that Simcoe wants the jail removed.

**Hon. Mr. Drea:** The lease was up.

**Mr. G. I. Miller:** That is true and I know it should be removed as it was built in 1851 but I think maybe some facilities in the area

would make it work more efficiently. I would appreciate those answers too.

There is one more concern from the employees who work there. Many of them have been working there at the jail a long while; it is difficult to pull up their roots. I was talking to one of them Sunday evening, who indicated he could not move—perhaps did not want to move—now they may change their minds on that, but I still want to relay this to you for your consideration.

**Hon. Mr. Drea:** One more thing. I want to point this out because it was in the statement because the collective agreement requires me to say so: We have said the people would be offered jobs throughout the province. The collective agreement requires me to say that. There might be someone who did want to transfer to Thunder Bay for a number of reasons; that option is open to them. However, it has always been my policy I don't believe in offering someone in Simcoe an equivalent job in the city of Ottawa, because that is not an equivalent job; even though we pay the moving expenses there are a great many more things than that.

When I say no job will be lost and they will be absorbed nearby, it means within 30 minutes' extra driving time. I consider that the ultimate of the hardship. I know earlier ministries of government have said "Your job will be maintained" and you were told there would be something for you in Kenora. With family, property values, and a great number of other things we might as well be asking you, "Do you want to go to Baffin Island?" I don't operate that way, Mr. Miller.

But the collective agreement requires me to state that—any job opportunity across the province. Then I realize nobody will accept the opportunity to go north, east, and so on; they want to stay within the area. But nonetheless, the terms of that collective agreement require I say that.

**Mr. G. I. Miller:** I'll assume they shouldn't have too much to worry about and things will probably work out in the best interest of everyone concerned.

**Hon. Mr. Drea:** Well it's been one of my grave concerns, Mr. Miller.

Item 4, agreed to.

On item 5, training and development:

**Mr. Davidson:** If I may, and again I'm not trying to play the role of the minister, Mr. Miller, but you've had a jail closing and I've had a jail opening. I've already discussed that with the minister. During your discussion on this subject though, you mentioned several areas these people would have to be trans-

ferred to in the event they were picked up and charged, and had to be incarcerated over maybe a one-night or two-night term, whatever it may have been.

It appears to me that you mentioned areas that were probably furthest from Simcoe. They are holding cells in Brantford which is only 20 odd miles from Simcoe. They have both OPP cells and city or area police cells in which these people can be put. I'm fully appreciative of your comments because I very well understand the problem you have down there and the terms of the closing of the jail. But I have to be perfectly honest with you, in saying that is one of the jails that without a doubt, if not replaced, should at least be closed.

There is no possible reason for putting people, human beings, into that type of jail, having them incarcerated in that kind of circumstance. If you do, you are contributing to a continuation of the problem that exists. One of the things we have to do in our correctional services, as far as I can see, is to humanize the surroundings in which we put our people. If we don't do that, we can only expect a greater number of returnees than we have at the present time.

I realize the difficulty there. I realize the people who work there are very much concerned. I'm satisfied in my own mind, after having questioned the minister myself on this, that the people, who are on staff, will be offered jobs in, as he said earlier, the closest institution to their homes and failing that whatever else is available. And I can fully realize there are people who do have deep roots in your area.

But I also have to look at the other end of it. What are we trying to do with correctional services?

**Mr. G. I. Miller:** I'd like to say that I never indicated the jail should remain. I said there should be some alternative, and to speed up the procedure. I don't want to get into a debate. I made my point to the minister and that's as far as I want to go.

**Mr. Davidson:** That's fine. And I accept that.

**Mr. G. I. Miller:** I'm not saying that the jail should remain there forever and ever.

**Mr. Ziemba:** Mr. Chairman—

**Hon. Mr. Drea:** On the Simcoe jail?

**Mr. Ziemba:** No, I was just trying to worry your friend. Two very brief footnotes on transportation of prisoners, especially if you are going to be taking over from the feds.

**Hon. Mr. Drea:** No, no, no. The sheriff's officers were talking about federal prisoners, and I'm sorry if I said it that way in a jargon.

These are people who have just come out of court and have been sentenced to a federal institution.

**Mr. Ziembra:** Oh, I see.

**Hon. Mr. Drea:** So instead of the sheriff's officers taking them there, under the auspices of the Attorney General, our people will be taking them there in our jail bus.

**Mr. Ziembra:** Right, the province will be responsible for them until they are located in Millhaven.

**Hon. Mr. Drea:** Yes, we'll take the transportation all over. Just as we take them to Millbrook, we will take them to Millhaven.

**Mr. Ziembra:** And jail bus. I know what that is and I don't think that's a particular concern. But these paddy wagons bother me, Mr. Minister. I don't know if you've ever—I've asked the Solicitor General—

**Hon. Mr. Drea:** No, I have never been in a paddy wagon.

**Mr. Ziembra:** —for statistics on the amount of injuries that are sustained in the backs of paddy wagons.

**Hon. Mr. Drea:** Yes, I was there the night, Mr. Ziembra, that you raised that.

**Mr. Ziembra:** And he never did give me an answer.

**Hon. Mr. Drea:** Well, I will tell you that you were somewhat vague, and I presume you chose to be, about one person, I think it was in the Toronto West.

**Mr. Ziembra:** No, I gave the name.

**Hon. Mr. Drea:** But you were not giving much of a description, Mr. Ziembra, and I wasn't going to ask you that.

**Mr. Ziembra:** Well it was David Mangra. I gave the name to the Solicitor General and to the police after.

**Hon. Mr. Drea:** But that night you didn't, okay? I don't know whether you did afterwards but I happened to be there. I was able to investigate the one in the Toronto East because there was a better description given. And that material was turned over to the Solicitor General. At least in the case of the one from Toronto East, I think you asked the question on a Thursday or a Friday, certainly within three or four days.

**Mr. Ziembra:** I stood bail for the guy in Toronto east and he's out right now.

**Hon. Mr. Drea:** Well, I know. But I turned over the information because our people, quite frankly, were unaware of the occurrence. I'm not disputing anything you've said. But when the person arrived at the Toronto East there

was no report of the incident. This concerned our people a very great deal. I've turned over the information to the Solicitor General because it was properly part of his estimates. The paddy wagon is not, you know, under my control. It's a police operation.

**Mr. Ziembra:** The people I worry about are the ones who are on the bottom of the ladder of the prison population—the informers, the sex offenders, the undesirables—and they're not likely to go anywhere with complaints. They're scared. They're frightened to death to talk to anyone. I wonder how many complaints you've had from the Ombudsman or others, regarding problems those prisoners have had in transportation to and from court, and to their final destination. I'll leave that with you.

**Hon. Mr. Drea:** No, we cannot. Just so we have a very clear demarcation for the rest of the committee, I think you and I know what we're talking about. When a remand prisoner is taken from an institution to a court appearance of any description, the Ministry of Correctional Services does not do the moving. It is the local police or the OPP. It is a police function because the person is still innocent. The only time we begin to move people in our vehicles, which are not paddy wagons—the jail bus is not a paddy wagon—is after sentence because we have no jurisdiction.

**Mr. Ziembra:** And you have buses but you don't have paddy wagons.

**Hon. Mr. Drea:** No, buses. I rode one through northern Ontario, you know, thrift being what it is, and I also wanted to see what it was like.

**Mr. Ziembra:** Okay, I should have left that with the Solicitor General.

**Hon. Mr. Drea:** No. It's an open vehicle. I just want to describe it now that you've raised it. This is an open vehicle. At least it's got windows. The only difference between it and a glorified van or bigger is the necessary metal screen between the driver, to protect him, and the doors don't have latches on the inside. There's also the silliest sign I've ever seen in captivity which says, "The law requires you wear your seatbelt. You will be . . ."

I think at that great moment in time, I don't think the \$28.50, which is the fine for not wearing a seatbelt, has very much impact. A paddy wagon is entirely different because a paddy wagon does not have a view. The driver is not in visual control or his assistant is not in visual control of the vehicle, it's a van.

Now then, from the ministry's point of view, we move 1,200 people a month who are



sentenced. We have had no record of any incident or injury. I don't know if we've ever prosecuted anybody for not wearing their seat-belt, but nonetheless. This covers the whole province. We will do that with sentenced prisoners going to federal institutions.

The particular difficulty with the paddy wagon is that police forces tend to have a very limited number, and they tend to jam them. They have to. There is no question in my mind, particularly with a particular element of inmate. I don't regard a PC, someone who is in protective custody, as special. I know what the rest of them want to say about him but as far as I'm concerned he is the same as any other inmate. I don't recognize class distinctions in group two's, or sex offenders. I just don't recognize it. I know it's there. I think this is something that is going to have to be worked out with local police departments.

[8:45]

There is another element in there, and I am sure you are aware of this. There is a euphemism used in institutions, particularly local jails—the "not too swift." I think you recognize that. I simply will not tolerate it, and as I have said on a couple of occasions, God help anybody in there who takes advantage of the "not too swift." I intend to discuss with the Solicitor General as soon as possible some other aspects of the paddy wagon, the transfer of the remand prisoner, which is outside of my control.

I don't think it is an efficient or a fair system because the sheer numbers are breaking it down, but in terms of jurisdiction, it is that of the local police or of the OPP, who report directly to the Solicitor General. I can tell you I share your concerns, and probably more in other areas that I don't want to discuss. I think it is a very valid concern and I think somebody should have raised something about it a long time ago.

**Mr. Ziemba:** Another bad spot is in the basement of the old city hall. What a rat hole that is. They throw you in there with everybody who was picked up that particular day.

**Hon. Mr. Drea:** The holding cell? Yes.

**Mr. Ziemba:** You can tear that down.

**Hon. Mr. Drea:** Mr. Ziemba, I have to be very nice with you. You are the only one who supports me about the Don. Probably you and I are the only ones who know anything about it.

**Mr. Davidson:** I toured it. I know what it's like.

**Hon. Mr. Drea:** But Mr. Ziemba from day one—

**Mr. Davidson:** I know he was there a little longer than I was.

**Hon. Mr. Drea:** The problem with the holding cell area in a place like the old City Hall is it was never designed as a courthouse for that type of thing. It is obviously antiquated. Unfortunately, the people going to high court don't go there except on the odd remand and immediately there they go somewhere else; the facilities are much better. By the same token that is the place where most justice is dispensed, just on sheer volume.

The Ministry of the Attorney General—and I know this from the time that Mr. Callaghan was the Deputy Attorney General, and he has now gone on to be a senior county court judge—has been trying to do something about that. I don't know if you were here before when I talked about changing the remand system whereby the remand could be physically done—I am talking about a remand only for the sake of the law, the seven days, not a trial, nothing like that—and could be performed in the modern institutions. I went through the thing about what we would have to provide to conform with the law. We are willing to do that.

**Mr. Ziemba,** when I get into the inevitable confrontation with the bench, because they are being very stubborn about this, I would hope that I would have your support and you might assist me in that. I think that is the real answer to it. We don't need holding cells for endless remands. It can be done in an institution, in a room, and the people can then go back to their regular corridor or what have you. That will also avoid this endless transportation, paddy wagons and what have you.

**Mr. Ziemba:** Another thing that just bothers me a bit is this, who is responsible for handcuffing the offender the minute the court decides that he is to be incarcerated? Is that yourself or the Solicitor General? For just a short trip down to the cellar usually you are handcuffed. That is the Solicitor General again?

**Hon. Mr. Drea:** We don't really have control over anybody, at least within our own destiny, until the moment they are sentenced. Everything else is directed to us or ordered by the court.

**Mr. Ziemba:** It seems so silly. A guy who is not paying support payments or he is picked up the night before for drunk driving or something, is handcuffed right away. It is demeaning.

**Hon. Mr. Drea:** As I say, the Ministry of Correctional Services—and I know everybody thinks we are responsible—does not get full

authority. There is no question we have to house them, board them, et cetera, but we don't have any control until the moment there is a disposition of the case. Up until then we are the complete creature of the court. When we get a warrant of committal that says, "You go to this institution pending trial," we can go down there and cry and weep and say it is overcrowded, et cetera, and unless the court will listen to us there is absolutely nothing we can do. Those rules, particularly those security rules, are made by the court.

**Mr. Ziemba:** I'm going to move away from that on to the larger question of "corrections." I worry when I hear Mr. Miller's concerns over lost jobs if a jail is closed down in his particular community. I can only conclude that prisons have become a big industry. Whole communities become dependent on prisons to provide employment for their people.

**Hon. Mr. Drea:** No question.

**Mr. Ziemba:** They are terribly interested in keeping the institution there, and to some degree keeping it operational and keeping the business flowing. It is a self-serving type of system that feeds on itself.

I have only been here a couple of years, Mr. Minister, and you have taken some very bold and enlightened steps, as far as I can see, with regard to alternative sentencing and trying to come up with alternatives to imprisonment. However, here you are playing around with a \$120 million budget or whatever it is, and I don't think that truly represents the figure because there are other monies allocated to your ministry, perhaps in Government Services in building alterations, whatever, we don't know.

We have no idea how many tens of millions of dollars are spent on putting people in cages, and you and I can both agree that there is no correction, never will be, and it is a holding concept, a warehousing concept at best. There may be the odd case of someone being rehabilitated. Everyone you talk to in the institutions claims he has been rehabilitated—after a week I know I was—but I don't believe that. I think most people who go in there come out a lot worse than when they went in. If you had your druthers—

**Hon. Mr. Drea:** Don't encourage me.

**Mr. Ziemba:** I am going to though, Mr. Minister, because I see you as a breath of fresh air in this ministry. I'll tell you it is a real relief to have you there over those two twits that replaced you.

**Mr. Lawlor:** That he replaced.

**Mr. Ziemba:** I'm sorry, that you replaced.

**Hon. Mr. Drea:** It may take two.

**Mr. Chairman:** I'm not sure, Mr. Ziemba, that "twit" is parliamentary language, but I will allow it.

**Mr. Ziemba:** Mr. Meen and Mr. Smith, what a pair of—well, I won't get into that.

**Mr. Chairman:** I think you already have.

**Mr. Ziemba:** They were just hopeless. I'll tell you what has been the saving grace of this whole ministry—the staff. It is your deputy minister and all these people here and the guards. I call them guards—you like to call them correctional officers, but they guard people. They are guards. They call themselves guards too. It is their commitment that has kept the province's prisons from falling into the mire that the federal prisons have fallen into.

**Hon. Mr. Drea:** Mr. Ziemba, all I want to tell you is keep going all night. You are confirming everything I have ever said. You are certainly not of my party, but keep going.

**Mr. Bradley:** Even across the floor.

**Mr. Ziemba:** I went out this summer to a number of prisons, I thought I could come up with horror stories and really do a number on the new minister. I thought it would be Larry Grossman, quite frankly, and I was looking forward to it. In any case, I was in a way disappointed, and it is a good thing I was, because I couldn't find much, if anything, wrong. I visited a number of prisons, and you know I did, because I had to check in.

**Hon. Mr. Drea:** I never looked.

**Mr. Ziemba:** I'll just give you a thumbnail sketch of some of the institutions. Here is where I see the future. The future is in the small community and the way they handle the offender. The superintendent of the Thunder Bay jail laid it out for me. I wish I could remember his name.

**Hon. Mr. Drea:** The jail or the ATC?

**Mr. Ziemba:** The jail, then I'll talk about the ATC.

**Hon. Mr. Drea:** It's Mr. Keddie.

**Mr. Ziemba:** Mr. Keddie, right, a prince of a man. Here is the way he laid it out for me. They have all sorts of community facilities there, group homes and native people's resource centres. You mentioned one that is upheld by a native woman that really is enlightened and farsighted, most progressive. It's Catholic nuns who operate another one. Here's how they work, here's the principle they work on: They all know each other. The police know the offenders and the judge

knows the police and the offenders and the parents, and they all phone each other the night before and they decide, "What are we going to do with this kid? He's gone bad?" They don't just throw him in jail or kiss him off.

If there is any hope of rehabilitating him, they come up with alternatives to the sentencing that that same kid would get in Toronto, because things are impersonal here, we don't know each other and the judges don't know each other. There's a sense of community, a sense of family.

Let me tell you I think they might have even gone too far. I went to the farm, the Thunder Bay correctional—

**Hon. Mr. Drea:** ATC.

**Mr. Ziembra:** —ATC, right; and I learned that one native chief appeared with his son who was about to be sentenced for some trivial crime, breaking a window when he was drunk or whatever. He said to the judge, "I insist that my son receive the same educational opportunities that I did. I want him to go to the Thunder Bay farm where he can learn to repair small engines, out-board motors, snowmobiles; he might learn carpentry, he might learn welding." Gee whiz, do people have to go to jail to learn these skills? You are providing education that perhaps the Ministry of Education should be involved in, but in fact people up there are breaking the law so that they can learn a life skill when they go back to the reservation. That's how many of them see it.

As far as Mr. Keddie and his particular jail are concerned, it's a well-lit, bright jail. I think it was built around the same time as the Don, but for some reason or other it looks really clean and I find there were no vermin there. I don't know whether they are allowed to use mousetraps and poison. That's the problem in the Don, we can't use mousetraps and poison because they might fall into the prisoners' hands and be used for other more destructive purposes.

**Hon. Mr. Drea:** I wish you'd come with me when the city of Toronto meets to preserve that rat trap.

**Mr. Ziembra:** The guys in the Don complain about their shoes being eaten up in the eight-hour period. They leave their shoes in the closet and by the end of the working day, the rats have eaten right through their soles.

**Hon. Mr. Drea:** Mr. Ziembra, I am only too aware of the Don. I just wish sometime I would get somebody to support me against the do-gooders and what have you, who regard it as one of the masterpieces of our time.

**Mr. Ziembra:** Well, it's a masterpiece all right.

**Hon. Mr. Drea:** Just for a second, just for the benefit of the committee, can we talk about the CRC programme in Thunder Bay, because I think—

**Mr. Ziembra:** No, because that's a success.

**Hon. Mr. Drea:** I want to tell them what a CRC is.

**Mr. Ziembra:** I am not going to let you off the hook for that. I want to know why you're not able to do that here in Toronto, where it's so necessary.

**Hon. Mr. Drea:** I do. What about Gerrard House?

**Mr. Ziembra:** It's going on and your people are able to pull it off all over the province. In Belleville they have alternative sentencing. They have been doing it for two years, most successfully I understand. Thunder Bay, the facilities there are almost tailor-made for whatever situation comes up. Now, why are we so—I know why we are so impersonal here and why we're so uncaring, because we're a big city. Anyone who is picked up is just treated like so much cannon fodder to be put through the system. I wonder if perhaps you, as a minister, are prepared to make some wrenching adjustments, not small adjustments. Tearing down the Don Jail, my God, that's 50 years overdue, and God love you for it, but that's no big deal.

**Mrs. Campbell:** You don't think it's a big deal?

**Mr. Ziembra:** Let's talk about alternatives to imprisonment because we built two new jails and they're filled to capacity already. You build three more and the minute the Mimico jail is completed, that will be full to capacity. It's almost a self-fulfilling prophecy: the more jails you have, the more prisoners you have.

**Hon. Mr. Drea:** That's right. Why do you think I am so determined to close them down?

**Mr. Ziembra:** Well now, I want you—I don't want you, I am going to ask you—to tell me how you are going to work on these ministries to come up with alternatives to imprisonment, the fact that today we learned that native people make up 12 per cent of the prison population and up north they make up, I don't know, perhaps half or all. There were very few in the day I was there, because they were all out picking wild rice—the wild rice harvest was on—but when there is no work for them, they all go to jail. There is nowhere else to go. So what can you do as the minister, and what are you prepared to do? What are your immediate plans to take this \$100 million and get it into community resource centres,



alternative sentencing programs, halfway houses, to get away from putting people in cages? There is my question.

[9:00]

**Hon. Mr. Drea:** All right. First of all, for the benefit of the committee, I think we should point out that the community resource centre, or CRC, is not a halfway house. It is a jail without bars. It is under the direct control of the superintendent of the jail or the correctional centre. It may be a long way away, but it is under the direct control. The person who is in there is not an ex-offender, or on parole, or probation; he is a sentenced inmate. It just happens to be a place without bars.

First of all you say: "What are we doing in Toronto?" The old governor's mansion, right outside the Don Jail, is Gerrard House. That is a CRC. The people who run that are the most successful program we have. Sentenced inmates come directly out of the Don. One of my concerns is that when the Don is closed, obviously the new Don will be simply a remand centre. There won't be room for any sentenced people. I am making arrangements that I will have the people from the jail institution who did the screening to get them out there into Gerrard House right away so that they will be in Toronto East and Toronto West, so there will be no interference with that.

I may say that the operation of Gerrard House is so progressive that it even shakes me a little bit. Instead of the usual, "Go out to work every day and be home at 6 o'clock," with the exception of Tuesday night when there is group therapy, the curfew is midnight.

Also up until recent times there has been a weekend pass every weekend. Most of the inmates live in the downtown area and, "Why not go home for the weekend?" If they have survived all the temptations, going to work every day and not necessarily coming back until midnight, I don't see that they are liable to fall any faster or any harder or even fall at all on the weekend.

It also serves another purpose. I am glad you brought this up because I forgot to tell my staff about this.

**Mr. Ziemba:** They may as well find out now as later.

**Hon. Mr. Drea:** They are used to me. With those weekend passes, obviously those facilities were empty over the weekend. The procedure in the past was to take intermittents from Mimico, and those intermittents from Mimico for those weekend sentences—invariably because of drinking and a mandatory

sentence for drunk driving and what have you on the aftermath—were in there on the weekend. They did some of the necessary maintenance like wallpapering and painting.

It just so happened there were always three or four counsellors or social workers around who didn't press them, but if they wanted to talk to somebody, they were there. I think that was a very beneficial program for intermittents because when you give me somebody for weekends there is nothing—nothing—I can do for him except to feed him and to keep him. I do nothing. I think it is a dreadful waste of time by the court. I have been in difficulty in certain areas by saying that the intermittents' sentence, while years ago very progressive, today has outlived its usefulness and is worse than nothing at all.

I want to come back to that. There have been some difficulties, but not over that. There have been some administrative difficulties at our end, but we will commence the weekend passes again at Gerrard House so I can have intermittents from Mimico in there.

The CRCs in Thunder Bay—I wish I could do something like that everywhere in the province; and, look, it is not money, I am just not going to get an Edith McLeod everywhere in the province who can handle native women; she is a gift from God. I have also made the policy that no native woman will be sent south for incarceration. She will go to Edith McLeod. Edith McLeod will get her to straighten up and fly right and she will not be back, and she will not be into the southern Ontario milieu which, quite frankly, even with the best of intentions erodes people whose culture is even very far north, beyond even highways and what have you. I think Mrs. McLeod does an admirable job. I am very glad that she has been recognized, both by the native women of Ontario as their woman of the year; and by the native women of Canada. I would hope that she would be recognized well beyond that because she certainly can cope, no question about it.

The fact that we have the two nuns, Sister Bonnie and—

**Mr. Ziemba:** I think—Kaiaros.

**Hon. Mr. Drea:** Yes; K-a-i-a-r-o-s. That is an admirable institution. But, I think you have to remember it is a little bit more than a house; it just happens that in Thunder Bay you have two very remarkable females of our time. They started out as teachers, and out of the St. Joseph's Convent in North Bay and found that teaching really could be done by other people. There was a need and they do a remarkable job. You can't find that in every locale; money won't buy it.

But by the same token we are going to

have more CRCs. We are going to have to have more CRCs because I am going to have inmates working; and one of the difficulties with inmates working gainfully, as I have expressed before, is quite often that transportation costs or the shift of correctional officers becomes so much of an impediment that nobody looks at the program and nobody looks at the progress of the inmates. The answer to that is the CRC. We are going to have more of those. I might point out we have 22 of them now, and with the exception of two we purchase services. The community runs them, through a volunteer agency or what have you. The only two that are directly controlled by us are two native ones—one at Red Lake and one a little bit south of there.

We have been asking the native people who run it would they please set up their board so we could deal with it another way. They are a bit reluctant, but you know that is their difficulty—not their difficulty, but that's the only impediment. The moment they will do that to conform with funding, we will be glad to do it. There will be no change. They are a little bit reluctant to assume full responsibility, they prefer it this way; not that they should be, I think they do it much better.

I intend, before the end of 1978 to have at least one major CRC outside of every institution in the province. I say "outside" because I don't know what the location will be. It could be in the community, or we can have a CRC such as we have back in the bush north of Blind River where rather hopeless alcoholics, the real skid row types, are back there cutting wood and in very good surroundings; as a matter of fact, they don't want to leave. So it really does not matter where it is, it is in the best possible locale. I will have those all across the province, I will have them as adjuncts of each and every institution, whether it is the local jail, whether it is the correctional centre or what have you.

One of the things I think we should look at in terms of some of the new detention centres, such as Scarborough East, is that you literally have a CRC within it but you have a separate entrance and facilities for temporary absence, inmates who are going out every day. The public criticizes us because there are windows right onto Eglinton Avenue. Those are not for inmates. That is the TAP headquarters and they have a separate entrance. That is one answer to it.

I prefer the house out in the community because it is the real life. If you are going to fall to the temptations you might as well find out sooner than later, and we will give it another try.

One thing I would question—only in degree, because certainly I don't believe that any system can reform nor can any system rehabilitate—but I take a little bit of exception to you saying we are purely custodial. We may be required, for remand prisoners, to be custodial, because if you want to look at it in very harsh terms they are not yet our property until the court assigns them.

What we want to do in the institutional system is provide a total environment for them, because they are going to make the decision, and they alone. They are going to decide if they want to try to come back to the dictates of society, or to make what they call no decision, which is really a decision. They will come out and they will do it again, and there is absolutely nothing that you or I or anybody in this room, or any government, or any system, or any psychiatrist, or anybody else can do. If they want to try—and I emphasize the word 'try' because it is a behavioural matter—then I think, that within our institutions and our system we have to provide the utmost in help and services, because I am not one of those who believes that a behavioural problem is automatically over and there will never be any difficulties again just because a person has been motivated to try to make a decision. All we're providing is a place where they are fed decently, where they are housed decently, and where they know if they make a decision, there will be assistance to get them over it. If they fail—well, I suppose I am the only minister in here who regards failure as part of the human condition—if they fail they come back in and we start all over again.

If you want to talk in terms of institutions, I think you would agree that they are necessary. They are necessary for the protection of society; that's the goal. There are some people who should be in institutions, either to protect society or to protect themselves. There is no question about it.

I have gone to great lengths to open up our system. Millbrook used to be our absolute deterrent. You went to Millbrook if you were a PC—a group 2, a sex offender, or a behaviour problem—and you were segregated. It was hard, cell time, all the way. I'll say this for the province, when they built it, in the mid-fifties, they made no apologies for it. It's probably the most definitive statement of purpose for any institution.

I have opened up Millbrook to the outside. First of all, Camp Durham, which is right outside of the wall, will be reopened at the end of the month. They've spent about 30 days reopening.

Secondly, the chapel, which was built with

the best of intentions, attracts 12 people on Wednesday night for the Catholic service and about 12 people on Sunday morning for the Protestant service. Depending upon the hymn lines sometimes there is a somewhat larger crowd on Sunday morning, as many as 20.

There was no indoor recreation at Millbrook, as you know, except for that one little weight-lifting room. The sun goes down there, in the fall and the winter months, at about 10 minutes to 5 o'clock. It is a dark, gloomy, dismal place; there is a constant reminder that you earned your way in.

The chapel has been converted to a gymnasium. It's admirably suited to be a gymnasium; it's two storeys high, it's block and it has concrete floor with tile on it. You can put basketball hoops in there, and you can play handball, volley ball, squash. You can do whatever you want.

This means that despite the fact that you were sent to Millbrook for a reason, if you want to do something, there is an incentive. You can use the gymnasium, you're not doing hard cell time all the time. If you want to progress from there, you can go over the walls to Camp Durham.

I don't think that's enough, Mr. Ziemba. I think I have rocked our entire system. I don't believe that just because you are at Millbrook, you are beyond redemption, beyond a chance. In the New Year we will begin putting the people who have worked hard at Millbrook into adult training centres. I want to give them a shot at a trade or a skill or some kind of training.

As you know, up until now, our rule of thumb has been to accept those aged 19-24 with enough of a sentence that the course could be fitted into the adult training centre. I don't think they've ever seen anybody middle-aged other than the instructors. They are about to see some good old, middle-aged recidivists because we are opening up the entire system.

I don't ask very much of the inmate; in fact, I don't ask anything at all. We have a system and they earned their way in; we didn't draft them. There are rules. We conform by the book and all we ask of the inmates is that they conform by the book too.

But there is an incentive. If you want to try, well you can try right up to the top; and if you fail, okay, we're not going to consign you to the dump or tell you that you're beyond redemption or anything else. We certainly have a minister sitting here who is the last one in the world to talk about "beyond redemption."

If you try and you fail, well that's part of the human condition, nobody's perfect. If you choose not to try, there is very little that I can do. You will do your cell time and on the date that the court says, you will be let out. From there, it's up to you.

[9:15]

I don't know of any other institutional system on this continent that offers that kind of incentive. I don't really know, in terms of the institution, of the CRC, of the community programs, of the diversion in the first instance of the minor offender—speaking frankly you should have never been in jail.

Mr. Ziemba: Thanks, friend.

Hon. Mr. Drea: I'm not going to argue about the merits of the offence, but it was useless, ridiculous and stupid to put you in jail. If it was the wish of the court to impose a penalty, I think a work order where you did community work in your leisure time would have been much more satisfactory. I don't want to discuss the merits of the case. I'm never in favour with the bench; they're always looking for something.

That case showed the futility of the short sentence. There's nothing more futile in our whole system than the short sentence because we can't do anything for you. You know that.

If you weren't a politician and had some renown they wouldn't have learned your name in the old Don Jail in the short time that you were there. This means that there was no counselling and no help available. There wasn't even a caution when you left that maybe somebody from the community should take a look at you and try to make use of a community resource.

The community work order is much more beneficial. It gets to the root of the matter. The community does get something and by the same token the person can take advantage, through the probation supervision, of all the community resources that are available if they chose to do so.

There's no question that the incarceration system will probably always be necessary. I would hope to be around on the day that it is not but I'm not expecting the millennium. All right, that means we have to make the incarceration system work. The only way that I can make it work is to make it like free enterprise in the real world. The incentives are there; if you want to take advantage of them, you win. If you fail, you start all over again just like everybody else in this world. Does that answer your questions?



**Mr. Ziembra:** It answers my question, but that's where we part company, Frank. You believe in the free enterprise system; the free enterprise system is what brings on alienation which is the root cause of anti-social behaviour.

**Hon. Mr. Drea:** That's not true. No system causes anti-social behaviour because no system can improve it. You're the author of your own misfortunes. In some cases, you've a great many reasons and pressures upon you to succumb more easily than others.

**Mr. Ziembra:** I would have liked to hear the end of that little speech because it was a good speech. You said something along the lines of being interested in building that kind of a caring community where—

**Hon. Mr. Drea:** What do you think I'm doing! I'm saying people should do community work orders rather than going to jail. Inmates are going to work in your community; and they're going to have signs up, they're going to get recognition for the value of work that they do.

I'm not going to send native women south to the Vanier Centre. I'm going to send them to Edith McLeod boarding house, and that's exactly what it is.

I'm going to clean out that jail in Kenora of the alcoholics, regardless of their particular race. I can think of nothing more disconcerting than to walk by those cells on a Friday night, and see row upon row of people in there, male and female, and know exactly what they are. What else do you want me to do in terms of the community?

**Mr. Lawlor:** He's a one-eyed socialist.

**Mr. Ziembra:** You anticipate me, Frank. You throw me off with your—

**Hon. Mr. Drea:** Logic.

**Mr. Ziembra:** No, with your dissertations. When you talk about jobs and getting prisoners working, it sounds great in the headlines, but why the hell can't we give people jobs before they get into trouble? In other words, give them a feeling of self-worth.

Most of your jails are full of kids; 18 and 19-year-olds.

**Hon. Mr. Drea:** Every jail is full of kids, there's not one over 21?

**Mr. Ziembra:** They're not stereotype criminals; they're kids who are alienated. They enter a job market where the best job they can get is perhaps being a service station attendant or a car washer or some other crummy low-paying job, if anything at all. It's no wonder they hang around plazas feeling alienated and lash out at society and end up in trouble. This is happening all over the

province; and here's where I would like to see your government doing something. It's not your fault—you're the Band-Aid that's trying to keep the lid on things.

**Hon. Mr. Drea:** Oh come on, I'm a little more than that.

**Mr. Ziembra:** Your government has created a system where alienation is causing all this despair and anti-social behaviour. That's what you're faced with and you talk about continuing the prisons.

**Hon. Mr. Drea:** What do you mean, continuing them?

**Mr. Ziembra:** Continuing to cage people.

**Hon. Mr. Drea:** I'm not.

**Mr. Ziembra:** You should only be interested in caging the 10 per cent of the people who are dangerous to themselves and to the other prison population; but 90 per cent of the people who are in jail should not be there in the first place, they are there because of some trivial crime. They are there because they got into trouble over a silly first offence—they were drunk or they did not make support payments or because of prostitution or drugs. They are not being rehabilitated or corrected in any way by you. You talk about giving them jobs. Why the hell didn't somebody give them jobs before they ended up in there? Let me finish while I am on that line—

**Hon. Mr. Drea:** In all due fairness—look, I pick up the pieces, everybody else has failed.

**Mr. Ziembra:** I'm glad you admit that, because your leader is not admitting it.

**Hon. Mr. Drea:** When the judge bangs the gavel and says here is the sentence, he gives the person to me. Regardless of my personal views about society and a lot of other things, my responsibility comes into play when everybody else has failed. I wish you would take that into account.

**Mr. Ziembra:** A constituent called me the other day and told me he spent three days in the Don Jail because he had missed his support payment. It is a debtors' prison. Sixty-six per cent of the native people who are in jail in this province are there because they can't pay their fine and we talk about debtors' prison. It's disgusting.

Here's an idea, you are enlightened: why don't you think of something like the day-fine system in Sweden which is based on the person's liability to pay. One per cent of a person's annual wage is equal to one day in jail, so if you are earning \$5,000, you pay five bucks for 30 days or \$150.

**Hon. Mr. Drea:** The fine option alternative

in this province, for provincial offences, will be a matter of history in a few months. I don't believe in going to jail to pay fines.

**Mr. Ziemba:** Why haven't we heard about it?

**Hon. Mr. Drea:** I think you will. The Attorney General of this province (Mr. McMurtry) said he would bring in that bill somewhere around the second or third day of the session.

**Mr. Ziemba:** I didn't hear that. Has anyone heard the Attorney General—

**Hon. Mr. Drea:** It will be brought in before the session ends. In the Provincial Court Act, it was specific that the fine option for provincial offences—that is all we have control over—the fine option on provincial offences will end. That is something I think—

**Mr. Ziemba:** That means 66 per cent of the native people will be released the day that fine option comes in because that's why they are in there. They can't pay their fines. They are trivial fines, but most of them have not got the money.

**Hon. Mr. Drea:** I think it's a little bit more than that. I don't disagree with you on the principle but I would disagree on the figures. But I don't think we will get anywhere.

In any event, for provincial offences the fine option, which is so much or so many days in jail, will be a memory as soon as the spring session of the Legislature passes the Provincial Courts Act for second and third reading.

The Attorney General said he was introducing it way back. It will be tabled for first reading and it will be passed in the spring session. He said that he hoped it was such an important principle that it would not be subject to the usual road-blocks and haggling or what have you in the House, and I would echo that. I think Mr. McMurtry is the foremost Attorney General who has ever graced that particular portfolio in this province and I think that type of thing needs to be supported.

**Mr. Ziemba:** I'm going to yield to Mr. Davidson, Mr. Chairman. He wanted to come in on supplementary.

**Mr. Davidson:** One more question. We have got around quite a bit since Mr. G. I. Miller reintroduced section 4.

**Mr. Chairman:** For the information of the committee, we are still on a point of privilege. The hearing started with the question of the Simcoe jail.

**Mr. Davidson:** Nevertheless, all parties

were in agreement. Having had that agreement—

**Hon. Mr. Drea:** I think it has been a very good and frank discussion.

**Mr. Davidson:** I would just like to ask a question of you, realizing that you were not the minister at the time. The report by the ministry relating to resource centres was carried in the *Globe and Mail* on July 18 of this year and they basically condemned the entire program. The headline actually reads, *Poorly Run Program Blamed for Failure of Half-way Homes for Ex-cons.*

**Hon. Mr. Drea:** That shows how much the newspaper knows. It wasn't a half-way house and they were not ex-cons.

**Mr. Davidson:** It is quite an extensive article.

**Hon. Mr. Drea:** Do you want to ask me if I believe it?

**Mr. Davidson:** I'm not going to ask you if you believe it. I want to know what it is that you, as minister, have done about it since your appointment.

**Hon. Mr. Drea:** I haven't done anything, Mr. Davidson, and I haven't—

**Mr. Davidson:** If I may complete my statement, Mr. Chairman, it says: "Of the 581 inmates included in the study, 107 did not complete the program at the centre and were sent back to prison." I would like to think—again, as I say, as a party we're quite pleased—

**Mrs. Campbell:** Yes, if you'd like to think, we'd love to hear you.

**Mr. Davidson:** I'm thinking out loud.

We're quite pleased at your appointment. Like many people, we were a little dubious at the time, one might say. But your actions since your appointment have been the type of actions we as a party could support and certainly will continue to support. I'm quite sure you intend to go along on the same basis.

My question to you is merely what do you as a minister intend to do to straighten out the concerns that were included in that report, and to make resource centres more to the purpose they're proposed to be.

**Hon. Mr. Drea:** First of all, in all fairness, that report was written and was based upon a sample in the very early days of the CRC. I think that every time we look at a research report, we have to remember there was a great time lag between when the people were interviewed and the findings, et cetera, and the time it was published.

Secondly, I point out to you that 82 per cent of the people in the CRC program did complete it and left. That's a sentence, you

know, it's a jail; it's not a halfway house, it is jail. It mightn't have bars, you might have your own room; but it is jail.

Okay, of the 82 per cent who completed it, nine out of 10 did not turn up as recidivists during this study program. I don't know whether they have since then and I'm not going to be able to follow them the rest of their days. But if you listen to anybody who supposedly knows anything about the system—if you don't become a recidivist within the first 90 days, then you're probably not likely to.

Having said that—and I'm sure that the person who did the analysis meant well, et cetera—Mr. Davidson, I can tell you I don't give a damn. We are going to have more CRSs. They are going to be run by the private sector; and by that I don't mean for profit, they're going to be run by volunteer groups such as the John Howard group or what have you. We're going to purchase the services. I think they can do it better than we can do it. We are going to continue all across this province, it's as simple as that.

The other thing I am not interested in is percentages. I would eminently prefer to have a 30 per cent success if I am dealing with 600 people, than I would have to have a 100 per cent success because I'm dealing with six. The fundamental reason is you can screen out to perfection but you don't do very much good.

I will take the responsibility for the CRCs. As I said before, they will be in each and every community and they will even be in communities that are only dots on a map, wherever it is possible for them to be an adjunct of the jail where the person is sentenced. There are no two individuals alike among those who are sentenced to institutions. They all have different problems; they have different cultures; they have different geographical concerns. I cannot do in northern Ontario what we can do in southern Ontario and vice versa; or in eastern or western Ontario; it's that simple.

If the professors want to do great research studies, then God bless them, but they are not going to impede me.

Mr. Davidson: Mr. Minister, I think you took my comments as criticism, they were not.

Hon. Mr. Drea: I did not.

Mr. Davidson: I simply asked you if, based on that report—which apparently somehow or other was not supposed to be made public at the time, but was—

Hon. Mr. Drea: Wasn't it?

Mr. Davidson: Yes, that's absolutely correct; it was not supposed to be made public.

Hon. Mr. Drea: No, it was to be made public.

Mr. Davidson: After, I suspect, an amount of time. All I'm asking you, as the new minister, based on that report, and following along on the pattern that you have taken since your appointment, are you prepared to consider that report and correct the inequities that exist within the CRC? That was my question.

Hon. Mr. Drea: Sure, but what I'm trying to point out to you is that by the time the report was published it was already obsolete. Most of those corrections had taken place. That's all I'm trying to say. That was before my time.

Mr. Davidson: Right. I'm not trying to get into a confrontation with you.

Hon. Mr. Drea: No, I'm not, either. [9:30]

Mr. Davidson: I think CRC's are a good thing. I think they should exist.

Hon. Mr. Drea: They're not only good, they're very essential.

Mr. Davidson: Right. I think they should exist.

Hon. Mr. Drea: One thing I want to point out to you is we're never going to have 100 per cent success with them.

Mr. Davidson: Oh, my God; you never will on anything.

Hon. Mr. Drea: That's right. I want that very clearly understood.

Mr. Davidson: It is understood.

Hon. Mr. Drea: And I'd feel much more comfortable with the widest participation from the institution, with all inmates allowed to have their chance, rather than have a very careful screening process while we have them in cells for two or three weeks and we can then say we have a 100 per cent batting average when we pick the best bets for the CRCs. There's a risk involved in that, I know that. That is the risk that in good conscience I must assume, and I alone.

Mr. Davidson: Just to conclude and not to raise the issue again, I just want to say that I think we as a party are fully aware that any program that's instituted will not in any way achieve 100 per cent. That's something that's impossible for anyone to expect and I can assure you we don't expect that.

Hon. Mr. Drea: I'm glad you don't.

Mr. Davidson: I would like to suggest to you that perhaps you should take a good look at that report and where you can see there are problems I would like to think you would correct those problems.



**Hon. Mr. Drea:** Sure, I have. There's no question about it, a program like this runs into initial problems. Everything that looks good on paper doesn't necessarily meet what the human condition can do to it. Where you have failures, you stop and you go on another path.

I want the media to evaluate the program not on the basis of what some professor has done, not on the basis of studies over 18 months, because that's great in the sociology department but it doesn't do very much good for the people who are involved in the program.

**Mr. Davidson:** Right, I agree.

**Hon. Mr. Drea:** That's why I say I want a daily one. That's why I've turned over the ministry to the public, through the media or anybody else. I want it daily. Let's find out where the failures are right away, for heaven's sake. Let's not wait for the official criteria by some Ph.D. Let's get on with the job.

We're going to have to make many changes. What's good today and what's valid, in terms of a changing society, changing attitudes, changing ages, changing cultures—the whole bit—may be totally obsolete in the morning. We have to have a ministry flexible enough to change in the morning to meet the needs.

That's one of my pet peeves about research. You say it's great, gee whiz; then you look back at when it was done.

I have a royal commission—the Attorney General has it—that's been looking at the Don Jail for almost four years. I am now in the dubious position of closing down the Don Jail and the report still isn't issued. It may have some validity in the future in terms of staff training or something like that. I'm not faulting anybody, I'm just telling you about the conditions that can arise when you go into extensive research; I prefer to do it in a non-structured way.

The people out there on the street are very practical people. They can judge and they can find the inadequacies based upon personal experience. The changes are either made or they're not. If people want to evaluate it in a much more formal way over a period of time, yes, that's very valid; but I want to know today what has failed last night so we can make sure it doesn't fail again tonight. You're not doing the human condition any good to force somebody to persist in a program that is failing.

**Mr. Davidson:** I accept your answer, Mr. Minister. I want you to know that as a party we're prepared to support your expansion of CRCs, but we would like you to take a look at that report—

**Hon. Mr. Drea:** I have.

**Mr. Davidson:** —and if in fact those problems do exist, that you move to correct them.

**Mr. Chairman:** Mr. Ziemba.

**Mr. Ziemba:** Thank you, Mr. Chairman.

I'm going to try to be brief—

**Hon. Mr. Drea:** That's impossible for both of us, but go ahead.

**Mr. Ziemba:** I'll let you respond at the end, Mr. Minister. I thought we had more than 22 CRCs? Most of them are out of town. There are only two in Toronto—the Gerrard House and one other.

**Hon. Mr. Drea:** Sherbourne.

**Mr. Ziemba:** What kind of increase can we expect this time next year when we sit around this table? I'll let you think about that for a minute and I'll hit you with a few more.

The women in Kingston Penitentiary—another dungeon—how about getting them out of there? Let's get a commitment from you here and now that you're prepared to pick up where the federal government has really been falling down on the job. Stop locking women up in that hell hole. You've got Vanier, I understand, half empty. I don't know if there are 100 women in Kingston Penitentiary, I don't know the number.

**Hon. Mr. Drea:** There are more.

**Mr. Ziemba:** There are more than 100?

**Hon. Mr. Drea:** Yes.

**Mr. Ziemba:** Can you help them out? Let's get them out of there and perhaps talk to some of your counterparts in the other provinces.

**Hon. Mr. Drea:** Mr. Ziemba, I am prepared to negotiate with the federal government because they have proclaimed the provisions for Bill C-51, which allows for the exchange of prisoners.

**Mr. Ziemba:** Yes, they have; but they have been dragging their feet about every other damned thing, and you know it. The proposals of the task force were put to them about a year ago; Fox hasn't acted on one of them yet, not one. He should be ashamed of himself. Apart from the Mounties scandal—

**Hon. Mr. Drea:** Mr. Ziemba, I appreciate your supporting me in my stand, but I do have to go to Ottawa with clean hands and negotiate. In September you wanted a commitment. Let me give you a very plain, simple, straightforward commitment:

We are prepared to negotiate in good faith with the federal government because

they are going to have to pay the costs. It's really the boarding of the prisoner. I am prepared to negotiate in good faith and I am quite confident that we will be successful some time in the month of February. I think it probably would take that long with the paper work. I am prepared to take every female Ontario inmate out of Kingston Penitentiary. That is the limit of the exchange agreement.

I am also prepared to take, to the limit of my ability—there are 52 at the moment who are Ontario inmates—every female inmate out of Kingston Penitentiary that I have room for, provided they want to come. Obviously if they are from some other region they may want to go somewhere else—some other province.

I have said publicly, Mr. Ziemba, and I welcome the opportunity to say it again: I am not going to go down to Kingston Penitentiary to pick and choose. I am not just going to take the safe ones. I am going to take all, or I am going to take none. I am not going to consign someone, because of my decision, to—I think the word the federal Solicitor General used a year ago when he promised to close it was a "dump". I cannot do that in good conscience.

At the time, I may have to make the Vanier institution somewhat more secure for a percentage of those inmates because they have been violent. It is my feeling that once they get here they may be assigned to other facilities which are more in keeping with treatment or therapy for their very deep disturbance. But that is something we'll look at at the time.

So in terms of a commitment, I am prepared, to the limit of my ability—and that means bed space only—to take each and every female prisoner out of the Kingston Penitentiary. If I didn't do it I would only be perpetuating that place for another generation or two. I want to make it very plain to the public of Ontario so that they know exactly what I am doing. I am not just taking the safe female prisoners, I am taking all who are in a position to come or who want to come.

**Mr. Ziemba:** All Ontario women will be out of there by February.

**Hon. Mr. Drea:** All Ontario inmates, I am prepared to take. It is up to the federal government, because they have to assign them to me. They are not under my jurisdiction. I am prepared to take female inmates whose place of origin is other than Ontario, provided they choose to come. They may choose to negotiate or try to do

something in Alberta or Manitoba or down east—you know, I don't believe in transportation for the female; I have said that many times, and welcome the opportunity to say it once and for all, because there's criticism about—

**Mr. Ziemba:** You're closing down the Don Jail in the Christmas season. Why don't you try to move in on this, Frank, and get them out before Christmas?

**Hon. Mr. Drea:** They'll be out before Christmas. I have to move certain machinery and so forth. The inmates will be out long before Christmas.

**Mr. Ziemba:** No, it's not the Don. Let's get the women out of Kingston before Christmas. How about that?

**Hon. Mr. Drea:** I would love to negotiate with Mr. Fox; I would love to make the agreement. But Mr. Fox is preoccupied at the moment with some other matters under his jurisdiction namely the RCMP. I think it would be very unfair, when he is obliged as a minister of the Crown to be in the House of Commons every day to answer some very deep and very serious questions, to get into a situation where we divert his attention.

I will do it, Mr. Ziemba, believe me, at the earliest opportunity. I think that everybody is abundantly aware of what my feelings are. Once again I say to everybody here, there will be an uproar in Ontario about it.

**An hon. member:** Why?

**Hon. Mr. Drea:** Because many of them are not secure prisoners. There are risks in taking them. They have been pretty violent.

**Mr. Ziemba:** I don't think there will be an uproar.

**Hon. Mr. Drea:** Oh yes; but there has to be security, let's be fair about it. All I am saying is that there will be some profound concerns about what I am doing to a place that really has been without bars or locked rooms before, that is Vanier. I am taking all the female inmates we are eligible to take, provided the federal government wishes to send them because they are their jurisdiction, out of the Kingston Penitentiary. I say to you that the public does not often accept these things.

**Mr. Sweeney:** Does that mean you have to change the environment at Vanier?

**Hon. Mr. Drea:** I may have to, for the more secure people, yes. Otherwise, if I leave the person who requires very secure confinement for the protection of society or the protection of themselves at Kingston, and I

am picking and choosing, I am consigning those I reject to a dump. I think those are the words that Mr. Ziemba used.

**Mr. Davidson:** I take it, Mr. Minister, that you are referring to one of the questions I raised in my opening statement and that was of the negotiations between yourself and the federal government relating to the advisory committee report on the female offender, for whom there are two options, I believe.

**Hon. Mr. Drea:** We really couldn't negotiate, because it required that proclamation of C-51 allowing for the exchange of inmates.

**Mr. Davidson:** Right, I am fully aware of that but I think what you are saying, in effect, is that one of the two options you are prepared to negotiate with the federal government—

**Hon. Mr. Drea:** No, I am prepared to negotiate with clean and open hands, and I just told you exactly the terms I intended to negotiate on.

**Mr. Davidson:** You are still talking buy-back of service though.

**Hon. Mr. Drea:** Oh no, the inmate there is under federal jurisdiction, plainly and firmly.

**Mr. Davidson:** Then you're talking about the redefinition of method of payment, you have to be.

**Hon. Mr. Drea:** Well yes, that is all we can do.

**Mr. Davidson:** That's what I'm asking you; so you are, in fact, negotiating one of the two options that come out of that advisory committee report.

**Hon. Mr. Drea:** Well I will negotiate in principle that way, but I don't think the federal government ever thought they would have a Minister of Correctional Services in this province who is prepared to go as far as I am going.

**Mr. Davidson:** I'm quite sure they didn't.

**Hon. Mr. Drea:** The only thing is, I want to make it plain that they are totally under federal jurisdiction.

Now I don't know what the other provinces are going to do.

**Mr. Davidson:** No, but as I say they have to deal with all other provinces.

**Hon. Mr. Drea:** Well, I don't really think that is insurmountable. If they can deal with us on that basis, then they make their own arrangements with other provinces. It's really not an exchange.

**Mr. Davidson:** No. I understand that.

**Hon. Mr. Drea:** It is really the federal government being able to purchase services,

that is a bed in an institution and care from us.

**Mr. Davidson:** It's kind of a buy-in or buy-out or whatever.

**Hon. Mr. Drea:** No, it's buy-in. We have no control over it, other than to provide the facility and to accept the payment. We have no control over the disposition of the inmate. It is very firmly within their jurisdiction.

**Mr. Davidson:** I am very glad you raised that, because if I recall the comments made yesterday, that wasn't part of the comments you responded to.

**Hon. Mr. Drea:** No, you raised it but we never quite got to it.

**Mr. Davidson:** I intended to raise it again and I am quite glad you have raised it now, because now we're aware of what it is you're doing.

**Hon. Mr. Drea:** Well, Mr. Ziemba raised it.

**Mr. Davidson:** Well, your response was —

**Hon. Mr. Drea:** Always give reformers some credit.

**Mr. Davidson:** Your response today though, indicates that you are—

**Hon. Mr. Drea:** I have said that before, I have said that many times before.

**Mr. Ziemba:** On the 22 CRCs, Mr. Minister, how many can we expect this same time next year?

**Hon. Mr. Drea:** I don't know in terms of the number, Mr. Ziemba. I gave you a commitment that they would be in each and every community where it was possible to have them as an adjunct of the institution; and some of the communities would be virtually cross-roads, such as they are north of Blind River.

**Mr. Ziemba:** How many can we expect for Toronto? I know how many we need, how many can we expect?

**Hon. Mr. Drea:** Mr. Ziemba, I don't know how many we can expect. It will be determined by a number of factors.

First of all, if the community work orders, which are the diversion from sentencing, are in full effect, there will be less of a population in the jail so there will be fewer people who are being assigned. In fact I would hope by the end of next year there would be no sentenced inmate in either Toronto East or Toronto West, so therefore the opportunity here, if you want to call it the supply, will have dwindled. It may be necessary, because they will be assigned by their sentences to correctional centres elsewhere, that we put them around there. However, it may be essential, because of their geographical locale,



where they grew up and so forth, to have them in Toronto. I think that is one of the problems I have to face.

If we are going to go on with the straight institutional system, I could sit down and project and I could tell you how many are going to be in the jails and where we are going to have them.

**Mr. Ziembra:** In one of the ministry's reports, I can't remember for which year, I read about a Mennonite program that concentrated on an alternative sentencing, volunteer sentencing in Kitchener. The ministry, under Mr. J. R. Smith, was taking all kinds of credit for it, except the thing was funded by LIP. Is that thing still on, or how about you putting some money into something like that?

**Hon. Mr. Drea:** I have a CRC in Kitchener.

**Mr. Ziembra:** No, this is a Mennonite program that was outlined in one of the—

**Hon. Mr. Drea:** Not by me.  
[9:45]

**Mr. Ziembra:** No, Mr. Smith did, the then minister of the day.

**Hon. Mr. Drea:** First of all, it was never a CRC, it was never under our direct control. I don't know what reference there was to it by past ministers. All I am saying to you is that that particular Mennonite program was never CRC or under our direct control. I understand from my deputy that it is still functioning, although we don't know where the funding is. There is a CRC in Kitchener under our direct control, it is an adjunct, not of the Kitchener jail but of the Burtch Correctional Centre. It is a very successful one, under Mr. Mott.

**Mr. Sweeney:** Is that Kitchener House?

**Hon. Mr. Drea:** Yes. People think it is connected to the Kitchener jail, it is really not.

**Mr. Sweeney:** It is connected to Burtch.

**Hon. Mr. Drea:** Yes, right.

**Mrs. Campbell:** I have no idea what vote we're on. Did we pass item 4? We passed item 4, then went back to item 3 and now we're on item 5. Where are we?

**Hon. Mr. Drea:** We are going to get down to staff development.

**Mr. Ziembra:** I have only a few more questions.

**Mrs. Campbell:** Have we not been on the adult situation?

**Hon. Mr. Drea:** We haven't got there. Mr. Miller wanted to raise a question. He wanted permission to go back to an earlier one, and that is fine.

**Mrs. Campbell:** Where are we now?

**Hon. Mr. Drea:** We're on item 5, Training and development.

**Mr. Chairman:** The chairman thinks it's a good debate.

**Mrs. Campbell:** But can anyone else get in?

**Mr. Sweeney:** Mr. Chairman, would you put my name on that list to talk to community resources?

**Mr. Ziembra:** Can I get a commitment from you as regards taking a shower in your prison system? Your showers are turned on twice a week. You know that, eh? They're controlled centrally. Prisoners don't turn on their own hot water. They can't be trusted with that. That's controlled elsewhere in the building. In the Don Jail each prisoner is allotted, I think, two minutes—

**Hon. Mr. Drea:** Mr. Ziembra, could we go to some other institution, please. I assure you the Don will be closed by November or December 31.

**Mr. Ziembra:** The new section is still going to be there and that section is still a problem. Some people think it's worse than the old section. There's no windows in it. You should tear that down, too, as far as I'm concerned. You should tear the whole bloody thing down.

**Mrs. Campbell:** Most members can speak with a great deal of assurance on that. Many members have rooms with no windows.

**Mr. Kerrio:** That's right. I agree.

**Hon. Mr. Drea:** I lived there for four years. You don't have to tell me about that.

**Mr. Ziembra:** Correct me if I'm wrong, Mr. Minister, this is common practice in all institutions that the showers are only turned on twice a week, sometimes three times a week, for a brief period of time.

**Hon. Mr. Drea:** Perhaps I have talked too much tonight. Perhaps Mr. Thompson or Mr. Harry Hughes, our director of operations, would like to reply.

**Mr. Hughes:** That is news to me, that our showers are only turned on for two minutes twice a week.

**Mr. Ziembra:** I didn't ask you that. I said your showers are turned on twice or three times a week only from a central control.

**Mr. Hughes:** I think you'd have to specify the particular institution. There are small, old, antiquated institutions like Kitchener jail—

**Mr. Ziembra:** How about the two new ones?

**Mr. Hughes:** On the new institutions, I would deny what you're saying.

Mr. Ziemba: The showers are available any time you want one?

Mr. Hughes: Yes; within reason, of course.

Mr. Kerrio: Should that be? What are you trying to prove?

Mr. Ziemba: What am I trying to prove?

Hon. Mr. Drea: Look, in fairness, in some cases people in institutions are working all day.

Mr. Kerrio: Yes. What the hell are they trying to prove; that's what I'm asking!

Mr. Ziemba: What I'm trying to prove is there's such a thing as human dignity; a person is entitled to take a shower twice a week.

Mr. Kerrio: Well, human dignity is also an assessment for what the hell they're doing there. There's a hell of a difference.

Mrs. Campbell: This could go on all night.

Mr. Kerrio: You don't have a feeling for the human dignity for a lot of people who are out working their ass off in society. Now you're trying to claim human dignity for some guy who's broken all kinds of laws, and he's in there to—

Mr. Ziemba: I'll have you know that most people who are in the Don Jail haven't been convicted of a crime.

Mr. Kerrio: I've been many years in this society and I've never had any problems. Go on, you're on the wrong track.

An hon. member: Maybe you should take a shower.

Mr. Kerrio: Well that's a lot of garbage too.

Mr. Ziemba: You mean you take a shower?

Mr. Kerrio: The Romans invented the goddamned things! Where do you want to go from there?

Mrs. Campbell: This is getting to be a little ridiculous.

Mr. Kerrio: Sorry, Mr. Minister, I shouldn't have interrupted, if you want to have 19 showers a week for the inmates, go ahead.

Mr. Ziemba: I'd like to have more than two two-minute showers a week.

Mr. Chairman: Mr. Ziemba, ignore his comments.

Mr. Ziemba: Yes, I will.

Mr. Kerrio: Mr. Chairman, you're absolutely right.

Hon. Mr. Drea: Vince, you carry on with that type of conduct—look where it got me.

Mrs. Campbell: Couldn't we have clarification, Mr. Chairman? Twice Mr. Ziemba started about two two-minute showers a

week. When the answer was given to him, he said he didn't ask that question. Are they two-minute showers; and if so where?

Mr. Hughes: Not to my knowledge, Mrs. Campbell. The question should be taken in the context of the particular area you're talking about. If you're talking about an old jail with an antiquated plumbing system and limited water supply, your statement may be accurate. About the new institutions where hot water is plentiful, I would say your statement is inaccurate.

Hon. Mr. Drea: It is also a question too, and let's not forget this, in some institutions the bulk of them are remand prisoners. They may very well be taken to court that day, et cetera. They have to be put into a holding cell prior to transportation to and from the courtroom, et cetera.

If you are talking about a correctional centre or a reformatory, where there is a schedule for people on sentence, the showers are there. As a matter of fact, the showers are used very extensively, because many prisoners are working, either inside or outside, and so on and so forth. They have the opportunity to shower. The difficulty is in local institutions or jails. You have to remember we are not in control of our own destiny there. It depends upon what you do, and how you're coming in. There's a processing time; you have to be at court, et cetera.

Mr. Kerrio: You're complaining about the prisoners; I'm talking about people working their whole life in this country and not getting as well treated as you're trying to prove.

Mr. Lupusella: You were never incarcerated, Mr. Kerrio.

Mr. Kerrio: Go on, you guys are all wet.

Mr. Lupusella: It's out of order, Mr. Chairman.

Mr. Ziemba: What would you do with them? Line them up and shoot them?

Mr. Kerrio: Well that's ridiculous.

Mr. Ziemba: What would you do with them?

Mr. Kerrio: I'd give them reasonable treatment, I wouldn't be questioning about two minutes—

Mr. Davidson: Mr. Chairman, if I may, as one of the critics for this ministry I take exception to the minister from Niagara Falls coming in here—

Mr. Ziemba: He's not a minister, he's a jerk.

Mr. Davidson: It's the first time he's attended these meetings. He does not know

what has proceeded in the discussions up to this point.

**Mr. Kerrio:** The hell he doesn't. He knows everything that's happened up to this point.

**Mr. Davidson:** He's being highly critical of certain questions that are being raised.

**Mr. Kerrio:** He knows when you socialists are getting carried away with your do-gooder crap.

**Mr. Davidson:** I don't feel he should disrupt the meeting in the manner that he is—

**Mr. Kerrio:** Common sense will prevail.

**Mr. Davidson:** —until he's had the opportunity to sit down and listen to some of the discussion, and participate if he cares to when his turn arises on the agenda.

**Mrs. Campbell:** If that ever happens.

**Mr. Chairman:** The hon. member is entitled to be here and to take his regular place in the line-up of speakers—

**Mr. Davidson:** That's all we're asking, Mr. Chairman.

**Mr. Chairman:** —and we would ask him not to—the odd interjection is okay, but not to carry on unduly.

**Mr. Kerrio:** I agree, I'll take direction from you, Mr. Chairman.

**Mr. Chairman:** There is some feeling that perhaps the questions from single members go on a little too long. If you have a further question, and it is not too long, I would trust—

**Mr. Ziemba:** Just one last question. A group of people—

**Mr. Kerrio:** You said that an hour ago.

**Mr. Bradley:** Just ask it.

**Mr. Ziemba:** If it's really upsetting you I'll conclude at this point.

**Mr. Bradley:** Ask the question.

**Mr. Ziemba:** No, I'll conclude. I'll yield to the member for Niagara Falls.

**Mr. Kerrio:** I appreciate that very much. Can you do that?

**Mr. Ziemba:** Go ahead.

**Mr. Kerrio:** Mr. Chairman, thank you so much for allowing me to walk right in here and become involved in this discussion.

**Mr. Bradley:** You won't be the first one.

**Mr. Kerrio:** I have a few comments to make along these lines that I think may be appropriate. I think the general public is generally in favour of what's happening. I think many citizens involved across Ontario really have never had a feeling about what's happening in the prisons. In very recent times, however, they are quite aware.

I think most of us would agree we want to be fair with those people who are incarcerated, but I must point this up and I think it's a valid comment. In society as it exists today there are many people working diligently to care for their families to do what has to be done to keep their place in society. They question what's happening when people are incarcerated and looked after in a manner that's far beyond the means of many people who diligently apply themselves from time to time.

I certainly would be the last person to lean on people who are incarcerated. I want to be very fair with them. But the minister himself has pointed out what happened in Millhaven very recently, and that to take a couple of prisoners, to hold them in ransom, to demand things that are not actually available to many people who work in our society, is grossly unfair. I have to concur with what this minister is doing. Fairness is all right; but in fairness I mean compared with what happens to other people in our society.

I'm certainly not wanting to take vengeance on those people who are there. I think this minister is doing something that all of us have waited a good long time to have happen. That is make those people aware of the fact that they have done something in society that they have to pay a bit of a price for. The rest of us have to fall in behind him and make certain that we agree, that we're not going to pull him apart and talk about showers and toast and crap. Let's talk about what's happening in our society.

I say with respect, many very hard working people with two or three children in their family are not able to avail themselves of what some of the prisoners have. You bleeding hearts are not doing our society any favour by running there and saying what you're saying here tonight. I thank you very much for giving me the opportunity to make my feelings known.

**Mr. Davidson:** That should win you a lot of votes in Niagara Falls.

**Mr. Kerrio:** Mr. Minister, if you keep on the kind of tack you're on, you're certainly going to get a lot of support from the people across this province. It's been a long time coming and I tell you you're going to get a lot of support. I thank you very much.

**Mr. Chairman:** Item 5, Mr. Sweeney.

**Mr. Sweeney:** Mr. Chairman, please excuse me for just a minute until I see if what I want to say fits in.

**Mr. Kerrio:** It doesn't matter.

**Mr. Sweeney:** It did before, but I don't know if it does anymore.



**Mr. Kerrio:** Fit it in.

**Mr. Chairman:** It hasn't bothered anyone else this evening, Mr. Sweeney, so I don't see why it should bother you.

**Mr. Sweeney:** Okay, thank you. Let me put it this way. The topic has been raised and I think perhaps legitimately. I would like to go back to the minister's comment with respect to the community resource centres; specifically, Kitchener House, and I think it's associated with Burtch.

Basically, two questions, Mr. Minister: I'd like some description as to what your thinking is, what your future planning is, in terms of that type of organization. That's one.

The second one is—and I stand to be corrected but let me put it this way—I understand the support from your ministry for Kitchener House is somewhere in the neighbourhood of about \$6,000 per inmate. I also understand that if they were at Burtch or some other institution your contribution would be in the neighbourhood of \$14,000 or \$15,000, I'm not sure.

[10:00]

I've been to the Kitchener House. I've met the people there. I've talked to the organization. I must say I have to support what they're doing. It seems to me that when you get a group of people who are out working, who are contributing to the support of their family if they have one, who are paying income tax from their work, who are paying their own way in Kitchener House, that this is so much more a desirable approach. You have a group of inmates who are prepared to go this way, and the management of that house is prepared to work with people this way; and yet right now they're having to go for public funding in order to carry out the programs they wish to do. I can't see the logic or the rationale of putting them on such a tight restriction when if the same people were back at Burtch or some place else you'd be putting so much more money into it.

I'm just confused as to what your long range planning is, what your thinking is, what the logic is, behind that type of funding. I may be missing something and I'm quite prepared to be advised of what I'm missing. That's what I've heard.

**Hon. Mr. Drea:** In response to your first question, obviously there will be more. Before you came in tonight what I was saying is that we had 22 across the province. I intend to have, by the end of next year, one in every community where there is an institution. I think we have to remember

this is not a half-way house or a group home; no matter what the surroundings are, it is a jail.

**Mr. Sweeney:** Yes; I'm not questioning that.

**Hon. Mr. Drea:** No, but I think this is important, because it has to be in some proximity to the institution that it's a satellite of.

**Mr. Sweeney:** Okay.

**Hon. Mr. Drea:** The question was raised about Toronto. There probably won't be very many sentenced prisoners in Toronto, so obviously there'd be no supply of inmates for such a set-up.

In the Waterloo area that program has been very successful, and not the least reason is that apparently despite high unemployment—and I make no comments about that—these people not only get jobs they're in quite great demand, notwithstanding the fact that they are inmates of an institution.

There will be more units like this one. Obviously, there's going to have to be more in your area because of the transfer of sentenced inmates over to Cambridge or elsewhere with the closing of the Kitchener jail. Also, you're in the area where you are really within the sphere of two adult training centres or reformatories; so obviously there's a market.

One of the things you didn't mention is that in surroundings like that there is also the opportunity for very intensive therapy, whether it is psychological or just social work. It's one of the costs of that place. It's not just a boarding house—there are trained counsellors. They're assigned, et cetera; and the case volume is very low. It's virtually on a one-to-one or one-and-a-half-to-one basis maybe.

I think that is really getting to the gut of the problem. I don't think it's as simple as sending a sentenced prisoner out to work every day and that somehow he will come back at 6 o'clock and his problems will be solved. There has to be much more than that. The CRC as it is run in Kitchener House by Mr. Mott certainly does provide that.

Obviously, the CRC was an attempt to make things more economical. We could TAP or temporarily absence the inmate out of the Burtch Centre or any other one to go to work every day. The difficulty in the past has been, Mr. Sweeney, that quite often the cost of transporting him, the time and the effort and so forth, became so costly that the efficacy of the program and what it was doing for him was negated. I don't believe in that. I think you end transportation costs, et cetera; you stick him right there where he can literally walk to work or it's very convenient.

I was not aware of the fact that Kitchener House was asking for public funds. I will check into that and at our next estimates, if you're here, I'll reply to you—or I will reply to you directly on the matter.

**Mr. Sweeney:** Excuse me, I don't want them penalized for that.

**Hon. Mr. Drea:** Oh, no, no.

**Mr. Sweeney:** Okay, let's be sure. I just wanted to point out, Mr. Minister, that—

**Hon. Mr. Drea:** Mr. Sweeney, I am very—

**Mr. Sweeney:** —that their funding is at that rate.

**Hon. Mr. Drea:** Mr. Sweeney, Kitchener House is very close to my heart.

**Mr. Sweeney:** Good.

**Hon. Mr. Drea:** Believe me; I have been there, I have been there on numerous occasions, not the least of which was to engage in a public dialogue and I want to be somewhat vague about this for the purposes of Hansard as I don't want the particular person identified. But it is very interesting, as the Minister of Correctional Services, to be involved in a public dialogue on this matter. One of the professional people involved is an inmate of Kitchener House; and I think that you know what I am talking about but I just don't want that to be too specific. I'll tell the members privately what I am talking about later, but I don't want the record to show it.

I was not aware of the fact they were looking for public funds, Mr. Sweeney. I will ascertain why they are looking for public funds. I have on my desk now, and as soon as the estimates are over I can give it some time, a proposal from the people who started Kitchener House for an entirely different type of facility in the region of Waterloo. There is public funding that would be involved in that, from the business community and so forth, that is the proposal. They are not asking the government for funds at this time. I think what they are asking is the blessing of the minister.

I am prepared to give them that blessing after seeing just the sketchy part of it, but I want to go through the proposal in some detail, because there are ramifications for other areas of government in the particular type of funding, such as tax credits and so forth. That may be what you are talking about, but in any event I will look into the matter and if you are not here the next time the estimates are here I'll communicate with you directly on the matter.

**Mr. Sweeney:** The thing that very much impresses me, Mr. Minister, is that talking

to the—I'm not sure what the right term is, I'll say inmates—

**Hon. Mr. Drea:** Inmates; they are sentenced prisoners.

**Mr. Sweeney:** In talking to them, they say very clearly that in their minds the possibility of true rehabilitation in that kind of setting is so much superior to the possibility of true rehabilitation in the more confined type of setting. They believe that themselves, and I think even you will agree, Mr. Minister, that a person's perception of where they are getting to is important.

**Hon. Mr. Drea:** Sure. The only thing is that there are times for some when confinement and discipline will be motivating and the other type of treatment would not be. For these people, quite obviously, that type of environment in that type of milieu is much more motivating than the traditional. I don't want to leave the concept out there. I know as an educator you would probably agree with me that there is not one simple, single formula for everyone. It has to be a mixed one. The CRC is certainly a very vital and essential part of my ministry, but it is not the whole answer for all of them. There are different variations.

**Mr. Sweeney:** If I hear you correctly, if I am interpreting what I am hearing correctly: First, you support the concept of CRC.

**Hon. Mr. Drea:** Of course I do.

**Mr. Sweeney:** No question of that. Now, I am coming back to part of my question. Do you support it to the extent that the funding for it will be such that it is possible to carry out what we hope will happen there? You are not going to put them on a short lease, that is what I am asking.

**Hon. Mr. Drea:** Mr. Sweeney, there are 22 CRCs in the province. At 20 of them we purchase services; and for practical purposes at the other two we do too. While they are controlled by us, it is because the native people who run them prefer it that way. They really run their own show. We are merely purchasing services.

Quite obviously we are meeting the economic demands, because we are purchasing the services. The amount varies from locale to locale, because I don't think we could have one formula for the whole of the province. Certainly we would be extremely foolhardy to start to pinch pennies in this direction; because if we pinch pennies we nickle and dime the program, and if we nickle and dime the program we might as well have

left them in the institution. That is really what I want to say to you.

**Mr. Sweeney:** I'm glad to hear you say it.

**Mr. Lawlor:** Mr. Chairman, on an earlier point, I would like to learn more about the judges. Can you go any further with it? True they are a fairly conservative group of men who resist any measure of change, but it strikes me as really strange that you can't get a certain amount of goodwill out of them with respect to these remand courts.

**Hon. Mr. Drea:** In all fairness, Mr. Lawlor, I am the most reasonable of people when approaching the bench. I thought my proposals were very reasonable.

**Mr. Lawlor:** Right.

**Hon. Mr. Drea:** Not being a solicitor, I checked with very distinguished solicitors, not the least of whom is the Deputy Attorney General of this province, as to the legal definition of a remand court. I found out what it was, and I met massive resistance, Mr. Lawlor.

**Mr. Lawlor:** Massive resistance.

**Hon. Mr. Drea:** Massive.

**Mr. Lawlor:** Is there anything we can do to help you?

**Hon. Mr. Drea:** Well, perhaps if you would lend your good offices to those of the Attorney General and Chief Judge Haines it might be of assistance. You are a distinguished barrister and solicitor.

**Mr. Lawlor:** Well, I announce publicly that I think it's quite ridiculous the judiciary would give you resistance on this, which would alleviate to some degree the court load, and be beneficial to their own operation. I just don't understand it.

**Hon. Mr. Drea:** As a non-solicitor, that seemed to me to be a very practical solution that would alleviate the construction of court-rooms on every street corner to allow for easy movement. I have gone to the extent of offering my own car, if they want to be driven out, if that's the problem; and I still meet massive resistance. The massive resistance isn't directed at me personally. The bench does not condescend to speak to me personally. They speak to the Attorney General through the procedures of the administration of justice. All I can report back to you is the Attorney General of this province tells me it is a stalemate and not to count on anything.

**Mr. Lawlor:** I'll speak to McMurtry on this too.

**Hon. Mr. Drea:** One thing that's going to happen is that once again the defence bar is going to be blamed for everything; the Legal

Aid system is once again going to be blamed for the endless remands. It is not the fault of the Legal Aid system; it would still be there if there was no Legal Aid. It is not the fault of the defence bar; if there was no defence bar, it would still be occurring. The Law Society, The Advocates' Society, and the people who are concerned with the administration of Legal Aid in the judicial district of York have the right to speak up and be heard. It is certainly not because of them this stalemate is here right now. It will put public perception on the bench, and I think public perception of the bench at any time is a very valuable thing. I mean no disrespect to the bench, but I think a public perception of attitudes, of administrative things which do not take away from the quality of the justice administered, are beneficial in the public sector.

**Mr. Lawlor:** I have one very broad, and perhaps deep question to ask you.

**Hon. Mr. Drea:** Is that the description of me that you put in the newspaper? I'm still trying to figure that one out.

**Mr. Lawlor:** Maybe the description will be tested against the answer to the question. Do you believe there are such things as congenital criminals?

**Hon. Mr. Drea:** No.

**Mr. Lawlor:** I mean people born criminals.

**Hon. Mr. Drea:** No. Someone may be born so emotionally disturbed—if that is possible, I don't know. You might have someone who, almost from the time of birth, is so emotionally disturbed or deranged that they fit into the general category of being totally anti-social, but I don't believe there's a born criminal, I don't believe there is a created criminal.

**Mr. Lawlor:** I know judges who have claimed so, and done so from the bench.

**Hon. Mr. Drea:** I have the distinct feeling, Mr. Lawlor, you are trying to get me to emulate Mr. Andre Ouellet. I am not going to emulate Mr. Andre Ouellet from this platform tonight. There is too good a record being kept.

**Mr. Lawlor:** That was the farthest thing from my mind. I was thinking more of François Rabelais, okay; fine.

**Mrs. Campbell:** I was interested in what was raised by the member for Lakeshore. As I take it, your difficulty is with the so-called senior courts.

**Hon. Mr. Drea:** No, no, all the courts; although not the family court because I don't really have them.

[10:15]



**Mrs. Campbell:** No, I'm talking about the provincial court criminal division.

**Hon. Mr. Drea:** Yes.

**Mrs. Campbell:** I thought you made the distinction.

**Hon. Mr. Drea:** County court, yes; Supreme Court, yes.

**Mrs. Campbell:** The Attorney General, I would think, would have, through his chief judge, an opportunity at least to bring some pressure to bear.

**Hon. Mr. Drea:** Mrs. Campbell, it was attempted.

**Mrs. Campbell:** That is simply incredible to me. I think the suggestion has been raised with the Attorney General that as far as the Supreme Court is concerned he should give consideration to regional appointments. I think that might, in some cases, alleviate some of the problems. It is a dreadful situation if that is the case. I would join with my friend from Lakeshore—

**Hon. Mr. Drea:** May I point out some of the difficulties inherent in that? First of all, all female prisoners are out of the downtown area. There will not be facilities for females in what is left of the Don Jail. They will be either in the Toronto West facility primarily, or in Vanier. That poses a tremendous transportation problem for the police, especially in the case of the female prisoner.

Secondly, moving from Scarborough to downtown, moving from Rexdale to downtown poses enormous scheduling problems. Bear in mind, the Metropolitan Toronto police department, and I have a great deal of sympathy for them, do not charge us to move prisoners. They are one of the few police departments that do not charge a dollar and a half a mile. They have a limited number of paddy wagons or vehicles by which it can be done.

It imposes enormous scheduling problems on Chief Harold Adamson. He has accepted it because he is an extremely progressive man. He does not want the Don to continue.

It would seem to me if we could get remand courts in Toronto East and Toronto West, as we have at the Queen Street Mental Health Centre for those on assessment, this would relieve the tremendous cost of just routine transport back and forth for the police department and would help the scheduling of the court. I say to you that through the Attorney General and through Chief Judge Haines the approach has been made. It has been rebuffed, period. That's where I'm at.

**Mr. Lawlor:** What do they say?

**Hon. Mr. Drea:** Mr. Lawlor, I think that in synthesizing, they are not prepared to change the conventional mode in which remands are handled in the proper or conventional court.

**Mrs. Campbell:** Remands must be done in public.

**Hon. Mr. Drea:** Yes, but I'm talking about within the confines of the conventional court.

**Mrs. Campbell:** Yes, but they don't have to be in a courtroom such as at city hall.

**Hon. Mr. Drea:** I only get it back, because I can't deal with the judiciary. This has come back to me. What exists now is the system they are prepared to follow. They are not prepared to change, period.

**Mr. Lawlor:** No wonder the central west experiment failed.

**Mrs. Campbell:** There is another matter I would like to leave with the minister, and perhaps get an answer later. I have heard tonight, I think on three occasions, about these poor men who languish in the Don because they forgot to make a maintenance payment. He follows in the noble tradition of his predecessor. I would say that is about as untrue as you can get. I would like to know, in your scheme of things, what you can do with that sort of person. On the whole, anything I had to do with it was not support for a wife very often but for children; or one of his children while he lavished a great deal of financial assistance on another one.

**Hon. Mr. Drea:** Mrs. Campbell, if I could be very brief on that. I think I can give you the answer as far as I'm concerned. First of all, it is a matter to be disposed by the court. They have to find these things were in arrears. I wish that point had been made tonight. This was not me putting him into the Don.

**Mrs. Campbell:** No.

**Hon. Mr. Drea:** This was by direction of the court.

**Mrs. Campbell:** Of course, and the courts have only one option.

**Hon. Mr. Drea:** No; with Mr. Drea they have two options. First, for most, if they have any responsibility left or if it can be reclaimed almost instantly, we provide the alternative of the community work order, where they will be working in their spare time on the weekend, for nothing, to pay back the community for the cost of—not of maintenance for the wife and the family but of the proceedings. They would also be directed, as part of the probation order, which means they are a defaulter and so forth, to main-

tain their payments. If that doesn't succeed, if it is breached and the probation officer takes them back, then of course there would be a long enough sentence, it won't be a three or four day sentence, so that they will go to one of our more permanent institutions.

At that particular point, Mrs. Campbell, I can assure you the minister will take a personal interest. That person will be on a road gang from dawn till dusk and they will work by the sweat of their brow until they find

out that there are responsibilities to family and to community, I assure you of that.

**Mr. Chairman:** We have approximately four minutes before the doors are locked on the division in the House. When we next convene we will be convening on item 5, of vote 1501; that's on Wednesday morning. We have approximately four hours and 15 minutes left of the 12 hours for these estimates. Is that sufficient?

The committee adjourned at 10:21 p.m.

## CONTENTS

Thursday, December 8, 1977

Ministry Administration Program .....	J-59
Personnel Services .....	J-59
Training and Development .....	J-63
Adjournment .....	J-84

## SPEAKERS IN THIS ISSUE

Bradley, J. (St. Catharines L)  
 Campbell, M. (St. George L)  
 Davidson, M. (Cambridge NDP)  
 Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
 Kerrio, V. (Niagara Falls L)  
 Lawlor, P. D. (Lakeshore NDP)  
 Lupusella, A. (Dovercourt NDP)  
 Miller, G. I. (Haldimand-Norfolk L)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Sweeney, J. (Kitchener-Wilmot L)  
 Ziemba, E. (High Park-Swansea NDP)

### Ministry of Correctional Services official taking part:

Hughes, H., Assistant Deputy Minister Operations



No. J-4

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Justice Committee**

Estimates, Ministry of Correctional Services



### **First Session, 31st Parliament**

Wednesday, December 14, 1977

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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# LEGISLATURE OF ONTARIO

WEDNESDAY, DECEMBER 14, 1977

The committee met at 10:18 a.m.

## ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

(continued)

On vote 1501, ministry administration program; item 5, training and development:

**Hon. Mr. Drea:** Before we begin, Mr. Chairman, I think we should recognize a moment of historical import in this province. Despite all the controversy—and I am very glad to see the two critics are here today, we don't have the interlopers who get excited about things—the work gang came to Ontario on the weekend. Snow shovelling was done for 350 senior citizens, at the request of the borough of Scarborough. Those people were on the list of the borough, which is committed to doing their snow shovelling.

Last year, not necessarily through lack of budget, but through lack of manpower, those sidewalks and driveways weren't cleared most of the time. It was Scarborough's initiative; they phoned us, and the world didn't come to an end. Despite the forecasts of the terrible things that were going to happen, it took even the Toronto Star an additional two days to find out this had really occurred. I would like to point out, as you'll notice in the news stories, that they volunteered. I hope everybody would keep in mind that we are still on statutory remission, and probably will be until April 1. After that we won't have to go through the same procedure, because at that point your ability to work will decide your ability to walk out the door earlier.

I think we should record this because I am quite certain somebody will burst through the doors today, or before we are done, and go through all the motions again. It has happened; it's been very beneficial to the community. It has done something for the community that couldn't have been done before. As I say, it was marked with such little attention it took everybody two or three days to find out it had occurred.

The other thing I would like to direct to the two critics is that through your members—because I am trying to do it through mine

—a great many municipalities may be made aware of this type of service. So if you would pass it along to your members—I thought that in small Ontario towns snow shovelling was not a problem, that it occurred only in the impersonal urban areas. But I found in my travels it is more of a problem there. So if you would pass it on to your members, they could pass it on to the municipalities where to get in touch with us. They can have people on the list of those we will be able to provide that service for.

**Mr. Chairman:** If there's something in the walkways of the senior citizens' own homes—

**Hon. Mr. Drea:** And the handicapped and people who otherwise just wouldn't get out—people who haven't been able to do it.

There's some suspicion, because I'm from Scarborough, that that's why it happened there. As Mr. Bradley knows, I was in the Niagara Peninsula on Saturday, and I was totally unaware of the thing. It worked entirely normally. The only thing that Scarborough did is take advantage of our programs while the other boroughs in Metro did not.

**Mr. Chairman:** I'm sure Etobicoke will shortly.

**Hon. Mr. Drea:** Yes.

**Mr. Bradley:** Before I address myself to item 5, I would join the minister in being very happy about this development. I mentioned in my opening remarks that we would have to take some, for want of a better word, risks. I don't see it as being a gigantic risk. We have to take some risks to make this program a success, and I am happy to see the people in Scarborough were prepared to do that.

It's obviously a program that will help both the inmate himself, or herself—

**Hon. Mr. Drea:** I'm glad you said that, because some of them will be shovelling snow, just like your wife and mine.

**Mr. Bradley:** It also quite obviously helps the people of the community. I am sure both opposition critics join in expressing our pleasure at this development. We will certainly pass along to our members, and I will to my municipality, the potential for this particular project.

Addressing myself to item 5 in your

activity report, in the third paragraph, it states: "This branch has continued to administer the ministry's educational assistance programme. To date, approximately 950 staff members of the ministry have been encouraged and financially assisted in participating in various training programs conducted by agencies external to the ministry."

I would like to get some detail on what type of agencies the 950 staff members went to under the educational assistance program, what type of qualifications they earned—if they did earn any additional qualifications—and whether the reassessment study launched in November 1976 has come up with any proposals to improve training and development?

**Hon. Mr. Drea:** Mr. Bradley, since these are very specialized and detailed questions, and the documentation is here, I am going to turn that over to the deputy. He can call upon the particular staff to answer.

**Mr. Thompson:** Mr. John de Domenico is our director of staff training, and I'd like to address the questions that you have raised, which are reflected in the report on page 29.

**Mr. de Domenico:** Mr. Chairman, with regard to the question considering the types of educational agencies to which we send members of our staff, there are three principal agencies that we deal with. One is the Civil Service Commission, which conducts a number of courses offered to the entire civil service. Secondly, we assist our staff in furthering their education through either a community college, or thirdly, a university. I am not sure what other points came under that question.

**Mr. Bradley:** What type of qualifications did they earn? Were these degree programs or non-degree programs?

**Mr. de Domenico:** Some are degree programs, some are just correspondence courses or non-credit courses.

**Mr. Bradley:** Were any in particularly specialized fields, such as criminology—I am not saying they'll come out with a degree, but working in criminology courses?

**Mr. de Domenico:** Mostly they are working towards bachelors' degrees in the behavioural sciences. Some are in criminology courses.

**Mr. Bradley:** Are you satisfied that the courses they took were directly relevant to their positions? I think that is rather important. Just to diverge for a moment, I know in Education when teachers are supposedly upgrading themselves, many of them take Spanish authors or something like that when they are teaching science, and I never did

know the direct relevancy there. Are you satisfied that your people took courses which were directly related to their jobs?

**Mr. de Domenico:** Relevance to their position is only one of the criteria which we apply. We feel the general upgrading of the education of the staff member is of importance in the manner in which he conducts himself, especially in the rehabilitative aspect of his work. It might not necessarily be directly relevant to his job, but in the general view, it would be relevant.

**Mr. Bradley:** I do express a concern there because I think that if, as it says, you assist them financially with this—I recognize that in theory a general BA or a better education supposedly makes for better employees, because it makes for better people—those courses should be as relevant as possible to their position in the ministry, or at least to the ministry as a whole.

I am not saying in a specific position, because you might switch, you might become a deputy minister ultimately, so it would be useful to branch into other fields, but I think as much as possible they should be in that field. I would find some of the courses available totally irrelevant. I am not saying they are taking jewellery engraving or something like that, but I think we have to be careful about this because I know you are concerned about the way you are spending money in each ministry now. Everybody is concerned about that and the day of the joy ride, not only in government but in other areas, is pretty well over.

Now people want to see that they're getting their money's worth, and I think they'd best get their money's worth if the courses they took were directly relevant to their jobs in the ministry or to the ministry as a whole.

**Mr. de Domenico:** Perhaps I should have said that while relevance to the position is only one of the criteria, it is, of course, the major criterion. There are other things, such as length of service within the ministry and demonstrated capability of the individual to absorb a higher degree of education. As I say, there are other criteria. Also, I might add, we only partially fund the tuition; in other words, there has to be a commitment by the individual before we come into the picture.

**Mr. Bradley:** I think that is a good idea, because I think it tends to be more relevant to the individual.

**Hon. Mr. Drea:** The other thing that we have to recognize, too, is that within the ministry it would be virtually impossible to put down parameters on what you would



take. We do have a need in probation and parole, within a broad ambit, for just about anything. Institutionally, you can say, yes, it should be dealing with corrections and the specialized sciences, but when you get into some of the others, unfortunately by the nature of our task, it gets to be a little more vague. I can understand what you are saying, but it's not quite that easy in certain areas to really say no or yes within a short time.

[10:30]

**Mr. Bradley:** I am impressed by the fact you do at least attempt to direct them in this field. I just see in Education it is happening in the other direction. They are merely upgrading themselves because it means more money. They take a course that happens to be the easiest for them. That's all there is to it.

The other question I asked was: "Has the reassessment study launched in, I guess, November 1976 come up with any proposals to improve training and development?"

**Mr. de Domenico:** Yes, Mr. Chairman, it has. Indeed, last September my branch made a presentation to senior management which was accepted, and in which we launched phase one of the improvement to the whole staff training programme. We now have authority to reorganize our branch.

We have a think tank which we call a secretariat which has as its primary function the constant monitoring of training programmes, the updating of curricula and ensuring we keep up to date with the changing times in the field of corrections. That aspect of it has already been, and is being, implemented. We are now in the process of carrying on our studies and focusing on the method of delivering training.

As you probably know, we currently deliver our training in a mixture of on-the-job in our regional training centres and also through the education assistance programme. We are now looking at all that with a view to trying to do it in a somewhat more cost effective and organized manner.

**Mr. Bradley:** I am happy to hear you are even into the stage of implementation, because there are often times when we have studies that gather a lot of dust. To see the beginning of the implementation of this, I think it very encouraging.

The last item I would like to deal with under item 5 would be something called a crisis intervention training programme which is being developed and implemented. I would assume that crisis means such things as hostage incidents outside the normal expectations of what a correctional officer might have to deal with.

I would be interested in your comment. I can anticipate the minister's answer, knowing his philosophy now, but I shouldn't. When you have a situation of this sort, many in the public, no doubt, would like to see the minister say under no circumstances will he make any deals with the inmates. May I assume the minister would not be foolish enough to make that kind of statement?

**Hon. Mr. Drea:** Mr. Bradley, there are difficulties in talking about crisis intervention. I am fully prepared to talk about the material end of crisis intervention. We do have a central office, which happens to be the minister's office, although the minister will not be there. It is fully equipped with all the facilities required for communication and so forth.

One of the difficulties of talking about that type of crisis intervention is at that particular time, we are dealing with deranged people. In some cases these deranged people have been stimulated or motivated by others because of the fact they had nothing to lose. They may be going to be transferred to a federal institution on a double life term for double murder, with no parole under any circumstances ordered by the court.

I am extremely reluctant to talk about what the staff will do because it is 100 per cent a staff decision. I think you erode your ability to deal with the situation if the minister or somebody else from outside the institution enters into it. Quite frankly, I would feel much happier if I could discuss privately with yourselves and Mr. Davidson exactly what we will do. The difficulty is that when we say something here, we have to remember that in institutions every single word is weighed, evaluated and what have you, particularly by the deranged.

**Mr. Bradley:** They don't get Hansard there, do they?

**Hon. Mr. Drea:** I can tell you, Mr. Bradley, any time you, Mr. Davidson or I, because of the peculiar occupations we now hold, say anything, and indeed sometimes I feel it's down to the level of if we think anything, within 24 hours it is right through the system word for word.

**Mr. Chairman:** How accurately?

**Hon. Mr. Drea:** Very accurately. The difficulty is that everybody has a lot of time on his hands. They start to evaluate, to reckon and to weigh what the word "the" means. I would feel much more comfortable—and I am prepared to do so—to discuss this privately. I'll lay it right down on the line and say I think all of us would be in a much better situation if that occurred.

I can tell you in terms of the material end of the thing that the crisis intervention centre is right there on line. There are all kinds of mechanical equipment for instant communication and at all times there's a group available. Even on weekends there are people specifically slotted who have to leave their phone numbers and so forth so that they can get there immediately.

Our staff has been as fully trained as I suppose anybody can be fully trained for that type of event. There was a situation of this kind in the Vanier Centre about six months ago. One of the difficulties that's always confronted the staff when they're in this situation is that there is this feeling of dislocation. They really don't know what is going on on the outside and this becomes a particular problem. This happened out in New Westminster. We don't want to discuss that one.

Because of the crisis training our staff go through, they know exactly what is going on on the outside at almost any given moment. They know the entire procedure. In that case, a great source of strength to the particular female correctional officer who was involved was that she never felt alone. She knew what people outside were doing. She recounted afterwards that she almost knew minute by minute exactly what the ministry was doing on the outside. This becomes very important when you are the hostage.

Another thing is that everybody in our institutions who is a professional—we don't extend this to the volunteers—is fully aware that if that type of event takes place he has no authority. In other words, he cannot order. That even goes for the minister. If it were I, it is very clearly understood that I have no authority whatsoever. The moment that happens one automatically loses authority. It becomes in the hands of the people outside.

I think that too is a source of some strength in the situation. Also, that is very clearly known on the inside—as much, quite frankly, as a deranged person is ever able to comprehend. Perhaps at your earliest convenience we could sit down for about 15 minutes privately and I will detail exactly what we will do. But I agree with you, Mr. Bradley. I don't think it would be very productive if I were to state certain hard and fast things because one of the things in those situations is testing just how far the policy goes.

When you're dealing with the deranged, there is no limit as to how far the testing would go and in what way it would go.

Mr. Bradley: It almost becomes a challenge.

Hon. Mr. Drea: Yes. In most of these

cases, the end motive, whether the person or the persons involved realize it, is a challenge. They're always trying to edge a little bit closer to the line to see how far back they can pull the line.

The other difficulty is that from time to time in these situations there is the need to call in someone from the outside. That, of course, has to be an extraordinary step. In the light of certain events that have taken place in the federal system, people from the outside feel they are just getting a little bit reluctant to become involved, on the grounds their credibility is going to be challenged if they go in and they're told to do certain things. They do them and then afterwards people either endorse or renege. That wasn't part of the arrangement when the particular person from the outside was sent into a very, very dangerous situation.

It's all very well, two or three days later, to say nothing happened, but in the particular period of time they're in there, they are not too sure whether they're going to be able to breathe two or three days later much less to say nothing happened.

There are times, no matter how much you want to handle it by yourself, and no matter how well equipped you are, because you're dealing with the deranged personality, you never know if you might have to bring in somebody from the outside. It would be very extraordinary, but by the same token, you have to have some regard for the person who accepts that particular responsibility. It's a very onerous one.

You get into dealing in public in the fine print, and you change your mind afterwards. It's very easy to do. I can do it with a stroke of the pen and other people have done it. It becomes very difficult when people go in and their whole basis for going in is their personal credibility. Once that's eroded, when you ask them to go in the second or third time, you're really taking quite a risk with them. Their credibility and their personality or who they are, almost gives them an aura of protection that nothing would happen. Once you strip that away—this is all in psychological terms—and knowing what you're dealing with, these become difficult situations.

Mr. Bradley: I think that's a fair answer. The fact you have not revealed the details publicly, I think, really answers my original question. I think there's a tendency among some to want great pronouncements. I don't think that's the answer. I think your answer has indicated you don't feel that way.

Hon. Mr. Drea: Not when you're dealing



with the deranged. This is the difficulty. If you were dealing with people who were in relatively normal mental health, okay, put down guidelines. In these cases, I think you have to presume that despite the security of the structure, and despite the security that's built into the operations of the correctional officers and so forth, who are always aware of this, this person has been conniving or manipulative enough to have already beaten that. They have got around a couple of barriers, so what's the point of putting up another one. You just get into an endless series of challenges and responses.

The rule of the game is to end it and get back to normal as rapidly as possible. I just don't think laying out a great public pronouncement, that you're not going to do this, and you're not going to do that, lends itself to getting it over with very quickly. It's a challenge. They say, "Okay, having said that, I don't accept it. I'm going to do something. What are they going to do?" We just perpetuate it. The longer it goes on the more danger there is, and the more risk there is. I think the public has a right to know and a right to expect something.

The other difficulty is, since inmates are not held incommunicado, whatever you do is accessible to them. If you tell the public, it is communicated. You can't broadcast on the radio and tell the public the situation is under control and that in five minutes something is going to happen. You know there's a receiver inside, or a TV or some other means of communication. That makes it infinitely more difficult. It would be relatively simple if inmates were held incommunicado, and you could talk to the public and reassure them. That just doesn't occur.

[10:45]

**Mr. Bradley:** Another aspect of this that must be annoying to people who are attempting to deal with the situation is those members of the news media who are foolish or irresponsible enough to contact, on their own initiative, the person inside an institution.

I'm not saying contact shouldn't take place with your permission. Sometimes, as you've pointed out, outside intervention might be necessary. What is rather annoying to me is to hear of radio or television stations phoning in and having a live interview with the person holding somebody else hostage. Are you able to prevent that?

**Hon. Mr. Drea:** I don't really think so. I suppose if we held everybody incommunicado—but you can't.

**Mr. Bradley:** I'm talking about direct communication.

**Hon. Mr. Drea:** There are phones, if somebody is interested enough to dial enough numbers, somebody would answer. Once again, I'll discuss it privately and in full candour with you. We have taken into account these media problems. Certain situations have taken place, although not with us—

**Mr. Bradley:** No, no.

**Hon. Mr. Drea:** The most notorious is where there was a hostage in Thamesford, just outside of London. The person holding the hostage was tripped up by the morning hotline program. One of the lines was: "Why are you only asking for this amount of money? Why don't you be big league and really ask?" That had great ramifications a little later on, because the OPP had the greatest of difficulty getting that amount of money in small bills at the particular time.

There's another aspect to it. Knowing full well that communications are probably going inside, quite often we have to be extremely devious and underhanded in how we deal with the media. That puts great difficulty on our staff, because we are used to dealing in a quite openhanded, fair and accurate manner. Sometimes the media feel they have been betrayed, we have lied to them. We can say: "We lied to you because this was part of the game plan," but it leaves a bad taste. Next day you're back to normal programs, and the media start to wonder what you're doing.

We have taken that into account, and we do have a particular aspect of this program for the media, to discuss privately just exactly what we do. Last week, while these estimates were on, we had a four-day crisis training program that brought in specialists in the field from the United States. They have much more, a full range of experts. People went over certain new techniques, because unfortunately the crisis isn't what it was two or three years ago. There are new techniques evolving on that other side. All of those were taken into account.

People ask why the public wasn't informed. The difficulty is that you're into the old thing that, by the mere fact we're having it and it becomes public, we encourage somebody to try us out. In any event, we are keeping abreast of developments from the psychological all the way down to straight manual techniques.

**Mr. Chairman:** Since I have nobody on my list, I wonder if I could ask the committee if I might be permitted to ask a couple of questions, even though it's unusual for the Chair to do so. This is a particular interest



area of mine. One of the great advantages of getting elected to office is that you can hold all those things you have carried in your guts for years and years until you are able to ask the people responsible.

**Hon. Mr. Drea:** I also thought it was the pay raise debate like last night.

**Mr. Chairman:** I had some informal discussions with your training department. You were not the chairman of that department at that time. I forget the name of the chairman. I know he went off for a year on a sabbatical. That may give you some idea of the time. It was probably in the early 1970s.

My discussions concerned the professional development of the teachers in your training schools. At that time, I was co-ordinating and teaching in a certificate training program for community college teachers. The program was being run at OISE. We had a great many informal discussions about contents. I visited some of the institutions and talked to the teachers and so forth. I couldn't understand why they wanted to break up what was a fairly integrated kind of program into very small modules.

Finally, after an awful lot of probing, I had the feeling the reason they wanted to do this and the reason they didn't want a certificate handed out, in some way equivalent to that of the community college teachers, was that the teachers were being paid something like \$1,000 or \$2,000 less and if you gave them the same certificate they might start demanding the same money.

I have that from several sources within your ministry. Obviously, I can't disclose the names. At that time I had no one I could turn to. The program never came off, but I had nobody to turn to to complain about that kind of thing. I was wondering does training give any kind of a right to pay increases? Are people in your ministry, particularly those who are in the teaching or that have been involved in the teaching and facilitator types of roles, paid at an equivalent rate to other people certified in the same way in other ministries?

**Mr. Thompson:** I think since Mr. de Domenico is not directly responsible for the chief education officer who had that kind of responsibility for the training school teachers before they left, I suggest the personnel director Mr. Daniels, who is here with us, could best talk about the kind of teaching grid, the pay scales and how equivalent they may be to the outside of the service.

**Mr. Chairman:** By the way, at the time, I had nothing but praise for the particular training officers I talked to. They knew what

they were doing and they knew exactly what they wanted to achieve. I had the feeling then that they were operating in an area they didn't really feel like operating in or with restrictions that they didn't want to have imposed upon themselves. There is no criticism of the training department. I thought they were top-flight people who knew what they were talking about.

**Mr. Daniels:** Basically, there are three types of educators in the ministry. We have the regular academic teacher who is paid much the same as any other teacher on a board. Their contract is negotiated by their own teachers' union. The teaching day parallels the teaching day and year of the outside teacher. The contract is probably close to or right on the Metro board settlement and there are allowances for working in correctional centres that even bring it beyond the Metro board level. That's the academic teacher. The vocational teacher again is like a vocational teacher in high school. He's a credited vocational teacher and he can have an occupation certificate.

**Mr. Chairman:** These were shop teachers.

**Mr. Daniels:** That's the third kind, the trade instructor. Some of them have qualified and obtained their teaching certificate. As soon as they've obtained their teaching credentials, they're swung over to the academic side and are paid as an academic. If they're not qualified but are teaching sheet metal or carpentry, they're paid as trade instructors. That category has three different pay grades. It's basically tied to the correctional worker classes. It's a higher rate than normal correctional officers get in recognition of the trades experience but it's negotiated at the same time as the correctional officer raises. When correctional officers receive salary increases, trade instructors do also. It's not tied to the academic stream.

The work year for them is the same as a civil servant. It's 12 months with three weeks vacation or four, depending on years of service. It is an eight-hour day as opposed to the teaching day which is a bit less, around six and three-quarter hours.

**Mr. Chairman:** You mentioned that some of your trades teachers take what amounts to a high school teacher's certificate.

**Mr. Daniels:** Right.

**Mr. Chairman:** Surely it would make more sense to encourage these people into some kind of adult education training program rather than the kinds of things the high school teachers are getting. If you're from the training field yourself, then you know the kind of stuff that's taught in teachers'

colleges—and I don't want to malign them, though I have in the past—has very little relevance, from what I can see, to any kind of adult education or management training or to facilitating that type of program. I'm wondering why they would be encouraged to take that kind of thing and why you would even recognize such a thing. Most of the stuff that would be taught at Ontario Teachers' College would be irrelevant in working with adults.

**Mr. Daniels:** Back in the seventies—it was Mr. Mackie you would be talking to then—we had both training schools and adult institutions. Therefore, the vocational instructor would find his way mostly into the high school educational level. At the Brampton ATC where we're working with 16- to 21-year-olds there are still vocational instructors, whose work parallels academic education in the high schools. They go on to community colleges for trades training out on TAP in Brampton and Sheridan.

**Mr. Chairman:** What kind of professional development do you now have for teachers working with adults, particularly shop teachers and such people who may not have other qualifications?

**Mr. Daniels:** They are embraced by the chief education officer in his total program. When there are professional development days for teachers, the high school equivalent or the elementary school equivalent, they are included. They are afforded the same opportunity.

**Mr. Chairman:** They have a separate program geared to them?

**Mr. Daniels:** They get into the general professional development of academics. Even though they're paid differently and work different hours, they're still part of the academic stream.

**Mr. Chairman:** Do you bring in outside trainers or do you develop your own programs?

**Mr. Daniels:** I can't speak 100 per cent authoritatively. At the meeting I attended, they brought people in from OISE on curriculum development and teaching skills.

**Mr. Chairman:** That is an ongoing program?

**Mr. Daniels:** It's an ongoing program.

**Mr. Cureatz:** I wonder if I could expand on that a little bit. Are the teaching programs themselves very similar to and in line with the standard programs in other institutions?

**Mr. Daniels:** Yes. They should parallel the high school academic program. If the trades training one is for adults, the idea is to work

towards an apprenticeship, a training certificate, to try to work with the community colleges and ATC.

[11:00]

**Mr. Cureatz:** Are there some other specialized programs and appropriate courses in regard to rehabilitation specifically? Are the classes specifically geared to an education?

**Mr. Daniels:** Yes. It's both on-the-job and education. There is small motors repair, at Glendale; machine shops; sheet metal; and automobile repair at Brampton ATC. It's meaningful trades training. The instructors are qualified. There would be a class A mechanic working in the automobile repair.

**Mr. Cureatz:** Are there any other courses in regard to the simple development of life skills?

**Mr. Daniels:** Life skills? Absolutely. There are life skills not only in training centres and correctional centres, but life skills in jails, bringing people in from the community, for example personnel managers to talk about how to apply for a job. A lot of people in my field get involved with that. Life skills is a very integral part of most jails, not just the large correctional centres.

**Hon. Mr. Drea:** One of the things that has to be remembered about our system is we're dealing with extremely short sentences. Perhaps even trade training is a bit of a misnomer because in four months you can't teach a trade. In the federal system the sentences are much longer and you've got time to develop that training.

Our accent is on—a better description would be providing a skill to obtain a job in the relevant industry and to go on and do on-the-job training in that industry. It would be futile for us to start off a formalized automobile mechanic course within the framework of Dr. Parrott's ministry. We simply won't have the person that long.

The other difficulty is if you start that type of formalized thing—an apprenticeship or training program that takes 2,000 or so hours, the person may very well be released. You're not going to hold him just to complete the program. He may very well be released at 500 hours of that course.

There is the tremendous difficulty for the person going out and finding someone who'll take him as an apprentice for the completion of the course, not because of his record, but because they already have apprentices. They can't very well let the apprentice go who may have 300 hours within their system.

If I could give you an example in the field of automobiles. We are turning out very good, very skilled alignment people. The



front end alignment man who can use the equipment and so forth is in demand in the garage business. Our people can go out, and get the job in the garage as the front end alignment man. That isn't an eight hour a day job, depending upon how many vehicles come in requiring front end alignment. They can continue their apprenticeship as a full-fledged motor mechanic or body repair man on the job because they have a merchandiseable skill that gets them the job in the first place.

Some compliment should be paid to the Ministry of Colleges and Universities. At one time, our people coming out of relatively short trade courses such as certain types of welding had what was called a junior certificate, because of the restriction you had to have on-the-job experience. This certificate meant that ostensibly they had mastered the trade, and if they got the experience on the outside required under the formal trade training, they would get a full-fledged certificate. This made it extremely difficult for them to get employment. When the personnel people were faced with two people, one who had a full-fledged ticket and one who held a junior ticket, courtesy of the ministry, you know where the job went.

Through the efforts of Dr. Parrott, and through the industrial training branch in his ministry, the work our people now do inside the institution is considered on-the-job training equivalent to the outside. They get a full-fledged ticket. They walk out the door and despite unemployment in this country it's very refreshing to see there are two or three employers virtually outside the door wanting them. They've got their full-fledged ticket. It doesn't say "Ministry of Correctional Services" or anything else. It says "Ministry of Colleges and Universities industrial training branch." That is something that has only occurred in recent times. You have to be aware that other people were taking, at great sacrifice to themselves, straight training on the outside. But Colleges and Universities went for that because they thought it was a fair and equitable system.

In another area—if you want to be quite frank, perhaps later when Mr. Philip comes back you'd want to discuss this—we're simply not going to have the 17-, 18- and 19-year-olds any more, if the community work order works. I am sure it will, because the reason they are in institutions on prolonged sentences is they have built up a local jail record. They've gone through the suspended, probation, 15 days, 30 days, 45 days, six months' until the judge says, "Two years less a day."

We're not going to get them any more,

because if they persist, it's going to take us longer and they will be older when they enter our system. They probably will have achieved skills by the time they're 24 or 25, whereas the 16-, 17- or 18-year-old hasn't achieved those skills. So in the future we are going to have to look at more adult types of education and skill training. Also, our system is no longer going to be closed. Millbrook is going to be open; it's not the end of the line.

Instead of ATC, the adult training centre, being entirely youth oriented, you are going to get some 35-, 40-, 45-, 50-year-old veteran recidivists, because they've earned it, coming in for skill training. These places simply are not going to be youth oriented any more, they are going to have to take the same role society takes, that once you get to be 25 all is not lost. Societies have always prepared, and quite rightly so, to retrain the middle-aged and older, and we have to face that.

**Mr. Cureatz:** It's nice to see the ministry is now taking steps to try to be innovative in the years to come. No doubt we'll run into problems—

**Hon. Mr. Drea:** Well, it's a vested interest. I'm not 25 any more. Neither is my friend to the right—it's one of the few times he's been to my right.

**Mr. Davidson:** At what level do your teaching programs begin? Do you have upgrading programs at all?

**Mr. Daniels:** Yes, they really start at 'remedial'. You have to understand that a lot of our population have neither reading nor writing skills. So it goes from remedial all the way to university by correspondence. It covers the whole academic sphere, plus all sorts of trades, training and life skills. We cover the whole gamut of education, anything that can be helpful.

**Mr. Davidson:** Do you have, as one of your courses, operation of heavy duty equipment?

**Mr. Daniels:** Yes, heavy duty equipment is a course at Brampton ATC.

**Hon. Mr. Drea:** Remember, you're tremendously limited by the scope of that; it's difficult.

**Mr. Davidson:** I understand that. Operating certain types of heavy equipment is something that can be picked up rather quickly.

**Mr. Thompson:** That training is for men who are placed at Brampton adult training centre, but they go out to Sheridan College, where that kind of training takes place in Oakville.

**Mr. Davidson:** I raised that because my son goes to Lindsay College, and he took the



heavy duty equipment course in about two days—two solid days spaced over a period of time. So if a person is interested, it can be learned very quickly.

**Mr. Cureatz:** Do you have any records as to success percentage for the retraining programs, and going out into the community, jobs?

**Hon. Mr. Drea:** Do you want an honest answer?

**Mr. Cureatz:** Yes.

**Hon. Mr. Drea:** People go out into the community, hopefully, with merchandisable skill. What they do beyond that really is the human condition. Just because we have taught them a merchandisable skill and they go out and have a job, I don't necessarily believe having a job is totally virtuous. By virtue of the fact that one works eight hours a day, we in society cannot rest assured that there will not be a behavioural problem.

One of the interesting things is that most of the people who come to us and who are charged, et cetera, are gainfully employed. They had a job to begin with, but it didn't do much good to prevent the behavioural problem or, I suppose more accurately, the behavioural problem came about in spite of the job.

It's pretty impractical to measure this by saying if they went out and got a job, would they come back vis-à-vis not having a job. An interesting thing in Germany is that in their system the trade union does the training because the trade union does the placement on the job as well. They do the whole thing within their system. Hence, there is no argument about being properly trained, being accredited and going out the door and getting a job because the union has jobs. Their recidivism rate is the same as ours.

In countries where there is very little trade training done and it's mostly hard time, such as England, in the adult system anyway, the recidivism rate is the same. I think you have to regard the skill training within our system, because that's what it is, as just part of the total environment. We would be remiss if we didn't provide it, but it is not the whole and complete answer.

The public and society pretty candidly recognize that. It's one more facet or part of the total environment. Perhaps that may be the one thing for somebody, for the individual, that does motivate them, that they are never again back in the system and they become a contributing part of society. For others, it may be only a very preliminary step. There may be several more steps that have to be taken. Unfortunately, this can only

be achieved during periods of future incarceration. We would be sadly remiss if we didn't provide it.

One of the things we have been talking about at the professional level, one of the very interesting things about the life skills programs, is that we can attract into the jail, even for the remand prisoner, if he doesn't know his fate, or for the short-term prisoner—obviously, the short-term would not be with us much longer—volunteers from the community who can give for an hour or two a week the type of experience and expertise that we couldn't buy, even if we had all the money because corrections simply isn't those people's field. They want to work in banking or mortgages or budgeting or that type of thing. They do their duty to the community by coming in as volunteers for a week. Those programs are enormously beneficial and also are so flexible we can adapt them to a very small local jail without having to hire a professional cadre.

There is the difficulty once again with those trained to a certain denominator in there and quite often either the very small or the very large can be ignored. In terms of the life skills program, it's very essential we persist and are successful in attracting the volunteer lawyer. One of the fascinating things to me as a layman is that an awful lot of people who are there on remand, notwithstanding all of the built-in legal protections we have for them, the duty counsel, legal aid, et cetera, have no idea what court they're going to.

If we can get a solicitor in there who can explain the different types of courts and what a warrant of committal means and why they were denied bail, for the first time at least they seem to feel they're in some type of control of their destiny. Up until then it's been almost by remote control. You are marched into the court room and the gentleman or the lady sits up on the dais. Then they bang the gavel and that's it. You don't understand what's going on. I know the public would say: "Come on, you're part of the system, boy, even if you don't know what's going on."

It's true. They don't know the difference between the provincial court, the county court, or high court. They've got a vague idea of what a bail remand hearing is. They've got a vague idea, mostly wrong, about many of these things and just that hour or so instruction really helps. I don't suggest it's going to motivate them in any way, but at least it starts to get out some of the cobwebs.

Another thing too is that there is a group in every jail and in every institution in this province that works sometimes in very small rooms because the local jail may be crowded.

The only room is literally about the size of the desk in front of Mr. Williams and quite often it is filled with stacked chairs or some other thing. They do an enormous amount of work. I don't know how successful they are in real terms, but I know to me, the remarkable thing is they're all volunteers. This is Alcoholics Anonymous.

[11:15]

I think this is one of the things that in a sophisticated age we tend to forget, because Alcoholics Anonymous doesn't come to government or to me for funds. As a matter of fact, I've asked them would they please come to me. They must want something. If they don't want something, I'll invent something. I want to show, in a positive way, appreciation for the job they do because they're not a structured organization; they don't need a classroom; they don't need this type of facility; they will adapt; they will sit in a cell, and they come. If the meeting is at 7 o'clock, we're always there, because they're there. Weather, none of these things count.

They've done a remarkable amount of good. I don't know how much of the drinking problem you could assess they have cured. Certainly they have been in there, and they are in there, every single day of the week in all of our institutions—small, large, remote, or urbanized. They meet quite often in very crowded conditions, places perhaps you and I would really feel there wasn't much point in holding the meeting. How can we attempt to do something? Certainly in terms of a life skill, the ability to handle alcohol, which means you just don't drink, or you control it; is really up to the individual. This is a very pre-eminent thing in our society.

As I say, because they don't ask for funds, and they're not outside the doors all the time, in a public manner; they do it very quietly, very unobtrusively. I think sometimes the public tends to forget the role they provide. Alcoholics Anonymous tend to the positive approach and are able to get right down to the level of the particular inmate and the problem. Alcoholics Anonymous is really a magnificent example of what individual people can do, because it is not a structured organization. I think sometimes when we are talking about life skills, we talk about how to handle money and how to handle your personal life all around.

The ability to handle alcohol in our society, unfortunately, is something a great number of people are lacking. The government has spent millions and the education system is now spending millions, and so forth, and not succeeding very well. I think in terms of a life skill program, if we could provide nothing

else except some kind of a room for AA to walk in through the door and carry out the program, I'd dismantle the rest of the life skills other training. I think it's about time they got some help.

You can talk to our superintendents; you can talk to our line officers; you can talk to our probation office; you can talk to our parole officers; and you can talk to inmates, and the one group that is universally respected, even though in many cases it has not been successful, is AA. I think it's about time, maybe through the instrument of Hansard, they get a little bit of credit.

As I say, I've asked them and they won't come forward. I've asked them, "But surely there is something you want from me for the services you provide, not just through our ministry but for the entire community." To date they have not come forward. I'll have to invent something. They must need something.

**Mr. Davidson:** I have to agree with you on that because I personally know of two incidents where inmates in an institution were certainly helped by Alcoholics Anonymous people who went to that institution, so much so that they themselves now are part of the organization, doing exactly the same thing. I agree with you, they deserve a heck of a lot of credit for the work they do in that field.

**Hon. Mr. Drea:** They can adapt the whole thing to whatever circumstances they are in. Some social agencies should take a look at them, because you really don't need a lot of facilities and hardware—or software, whatever you call it—to be able to cope.

**Mr. Davidson:** You said you operated 15 schools and adult institutions. Do you still have 15?

**Mr. Daniels:** The juvenile schools have transferred to the Ministry of Community and Social Services.

**Mr. Davidson:** Your instructors—or should I say academic teachers—are all accredited, I would take it. No one is working on a letter of recognition or anything like that?

**Mr. Daniels:** No, actually over the years we've had people working on letters of commission, but at the present time I think there are none at all. They went to a full unionized teaching core and we've been able, through attrition, to reassign the—I think one person was working on a letter of commission. He is now a trade instructor. Rather than be let go, he was moved into another class.

**Hon. Mr. Drea:** We should say something else here. We can have all the qualifications in the world; you have to have certain standards, but I'm not one who believes in formal



qualification. As long as I'm around "or equivalent" is going to be in there because I'm a great believer in experience.

The other thing is, in certain areas of the province qualified resources simply are not there, though in southern Ontario there may be a surplus and they may be very easy to recruit. Quite frankly, I don't really see the point in trying to educate somebody who's going back to a reserve to the intricacies of the computer world. In terms of getting to people and being able to do things in a meaningful way we're going to find the "or equivalent" people. These are the people who can do the job.

Everybody's going to be horrified once again. I suppose the world will come to an end. But we're going to do it because the job has to be done and the people who are able to make the initial contact have to be in position. Qualifications are important, no question about it. You can't throw everything out. But you have to look at certain of the regions—language, the native problem in the north. I'm not one of those who believe, as do certain other ministries, that because people can't achieve the qualifications you put "special" or "auxiliary" after them. That is nonsense. If you're with us, you're with us all the way, period.

So I throw out that "or equivalent" thing. I know the Civil Service Commission and everybody thinks I'm rocking the boat. But there's a reason for it: we have to accept that Ontario isn't the city of Toronto. The people in our system are not all full-fledged high school graduates. They're not necessarily going back to an environment where that type of instruction would do one bit of good; it may do an awful lot of harm. We have to have the flexibility within the system to take that into account.

I think one of the failures in the past has been this determination that somehow we would get everybody up to middle-class values. I want to get some of the middle-class values, and many of the middle class vices that come with them, out of the system.

**Mr. Davidson:** My reason for asking the question—and Mr. Daniels may be aware of this—was an incident that occurred in Guelph with Ann Eidlin, who had worked for Correctional Services, I believe for three years, as a teaching instructor working under a letter of permission. This was before your time, Mr. Minister.

**Hon. Mr. Drea:** Everything is.

**Mr. Davidson:** She apparently had a very good rapport with the people she was working with, had the qualifications—other than

the certificate, unfortunately—and was let go because she didn't have the certificate. It was an unfortunate incident.

**Hon. Mr. Drea:** Were we compelled to do so, or did we do that of our own volition?

**Mr. Daniels:** No, the ministry did it of their own volition.

**Hon. Mr. Drea:** This is what bothers me. Every time we set up standards, somewhere there is always an individual who doesn't fit. I don't understand why the government is so determined that everybody is going to fit into a mold.

This particular teacher, Ann Eidlin, was an uncertificated teacher employed at Guelph Correctional Centre. Her unclassified public servant contract became illegal with the coming of Bill 132 creating the Provincial Schools Authority. Yes, we go through all the alternatives she would have, and you are quite right, when she comes down to the end and I think this is terrific, there is A, B, C, D and so forth. I think she took, really, the only option she had. She chose to resign and then appeal to the Ombudsman who is currently investigating.

In view of what I have said about the Ombudsman, I certainly hope he can sue for Mrs. Eidlin. I think sometimes when government passes legislation like that we should start taking into account a grandfather concept or some other human rights. Maybe that is another indication of why we need the Ombudsman in this province.

**Mr. Bradley:** We'll start getting into B.D. and A.D. when we talk in terms of before the minister and after the minister.

**Hon. Mr. Drea:** I thought it was B.C. and A.D.

**Mr. Bradley:** We haven't elevated you to that yet.

**Mr. Davidson:** How many teaching instructors do you have in the adult section?

**Mr. Daniels:** In terms of Mrs. Eidlin, I would like to add one thing. Even though she is not a certified teacher, she could work for the ministry as a trade instructor. There is nothing prohibiting that. I think she was concerned about her status as a teacher. I think the ministry would always recognize her status as an employee and would continue the employment relationship.

**Hon. Mr. Drea:** In fairness, she would have taken a substantial pay drop.

**Mr. Davidson:** That's part of the problem.

**Hon. Mr. Drea:** Yes, I think rightfully so.

**Mr. Daniels:** Part of the resolution of the whole issue could be, after she returns from



maternity leave, employment as a trade instructor on a part-time basis. That's what she was working as, part-time only.

I'm trying to be exact, if I could. There appear to be 65 teachers in the adult section.

**Mr. Davidson:** Do you have any idea what the ratio of teacher to student would be?

**Hon. Mr. Drea:** It would almost depend on the institution. You see, it is not like a nine-month or 10-month school system. You might have an influx because of sentencing, and you might have a very sudden decrease because they have completed their sentence, or have gone off on parole. I am sure he can give the ratio, but the ratio will often jump sky high for a little while, and then it will drop down to virtually nil. It is very difficult to schedule.

**Mr. Cureatz:** How do they bring them on line into the program when you have that kind of influx?

[11:30]

**Hon. Mr. Drea:** One of the difficulties is the length of the sentence. If you get a relatively long sentence—nine months to a year—a month or two waiting somewhere else doesn't really matter. What concerns me is the three- or four-month thing. There's such enormous flexibility in the system that by the time the guy has done with the waiting list he's walking out the door. You can't say: "Please stay around for another three months, sir, because we can give you this."

This is one of the reasons I'm taking a very close look at Vanier as the facilities are there. I don't like empty facilities when I know that somewhere there is somebody on a short sentence waiting for a training program and that the only thing that keeps him from the training program is the fact that the others are jammed. I think it's quite true we get to a point where they are jammed. We've got empty training facilities at Vanier that could be utilized.

I think it's a mortal sin to tell a guy that Brampton is filled, Rideau is filled and Burtch is filled but we're doing our best for him. We just don't have the time. That's why I want to open up Vanier. I want to open up every place we can. I'm not dealing with the federal system where, if you don't get it in January, you will still be there in November and they can fit you into a program then. We just don't have that at all.

**Mr. Davidson:** My reason for asking is that it's like any other teaching facility where, if the ratio becomes too high, the program becomes redundant because the teacher is not getting through to anyone.

**Hon. Mr. Drea:** It really can't become too

high because these are at particular locations and the bed space really controls the operation. To that extent it is controlled. When I'm talking about ratio, I don't mean we put 200 into a class. It varies so much that you might be able to get a person into a class for only three or four weeks because of the nature of his sentence or he wants to go on to something else. You may have somebody in there for three or four months, once again because of the duration of the sentence. That makes the scheduling of ratios very difficult.

There is an optimum which is controlled by the bed space in the institution. On the other end, there are times when there might be only one person in the class because it's in a particular changeover time or period of the year. We're controlled by the assizes which are quarterly in certain areas. Sentencing doesn't occur every Friday the way the press has it. On certain Fridays there are a lot and on certain Fridays for a number of reasons there are very little.

**Mr. Davidson:** I have a reason for following this line.

**Hon. Mr. Drea:** Just before you do, the other thing I should point out is that if we ever did get jammed, we can always TAP for the day and send out to the local high school or community college or whatever resource is available in the area. I prefer that to trying to set up a mini-resource thing that duplicates everything else in the community. It's expensive and I don't think it works. When the community has resources, since we are a community resource, then we're going to be serviced.

**Mr. Davidson:** Do you feel, Mr. Daniels, that 65 is sufficient?

**Mr. Daniels:** I've been advised now that it's a ratio of about 1 to 11 which is a really reasonable class size. There are teachers even in jails. It's a resource there for life skills. There may be, as Mr. Drea says, hundreds of inmates but only a small portion will make themselves available to correspondence courses, remedial or general interest or life skills courses, but the resource is there. It runs at a ratio of about 1 to 11.

**Hon. Mr. Drea:** In some of our jails under very crowded conditions there are some of the most remarkable females of our time teaching literacy, doing it in crowded corners or in rooms. There has to be an interest on the part of the person there. There's no question about that. They do quite a remarkable job. I don't think there's a professional teacher in the province who wouldn't be absolutely horrified at the surroundings.

In Barton Street jail there is a nun who

has operated very successfully for a number of years. She has a corner of a room where they put a desk across the corner about a fifth of the size of the desk Mr. Williams is at. That's stretched across and there's barely room for two chairs for her and the person she's teaching. She has persevered and overcome and has quite remarkable results. That's a community resource. She is not employed by them. She comes in from the community and regards that as her duty.

That's duplicated—perhaps not in that extreme a condition—across the province. We've had female volunteers teaching literacy in the old Don. The minute they go through the door, most people have to be revived, yet those women have gone in there night after night with not exactly the best in society or conditions to cope with and they have made progress.

**Mr. Davidson:** I just have one more remark. My reason for asking these questions is the fact that you're dealing with people who probably were reluctant to get an education to begin with or had difficulty.

**Hon. Mr. Drea:** The truth of the matter is many of them fit into the euphemism of "the not too swift."

**Mr. Davidson:** That may very well be true.

**Hon. Mr. Drea:** Yes, it is. I'm not a social scientist but it's a layman's look. You know exactly what you're dealing with. In our structured education, they just never made the structure. We're really very much later, after an enormous number of consequences, starting all over again.

**Mr. Warner:** Those are the failures of the school system.

**Hon. Mr. Drea:** Yes. I'm not so sure they're the failures of the school system but the people the school system had never really considered. It was an automatic area.

**Mr. Davidson:** Right.

**Hon. Mr. Drea:** They just held a seat as long as the law required and, at that particular moment they hit the street, the inevitable happened.

**Mr. Warner:** It says something about the school system. It may be a comment on the school system.

**Hon. Mr. Drea:** Yes, sure.

**Mr. Davidson:** This is why it is important to us that the ratio be somewhere in an area that is practical.

**Hon. Mr. Drea:** It has to be in anything. It almost has to be one for one with some of them.

**Mr. Davidson:** Agreed.

**Mr. Daniels:** I'd like to add one point too. You were asking about the number of teachers qualified under the provincial schools' authority. There are 30 other trade instructors who are involved in education. You're looking at about 100 teachers in the system, people instructing other people, Mr. Davidson. I think it's important to clarify that.

**Hon. Mr. Drea:** Plus the volunteers.

**Mr. Daniels:** Plus the volunteers and the part-time teachers too. I was not including them.

**Mr. Davidson:** In closing, I'd like to go back to your opening remarks regarding the Scarborough street-cleaning venture.

**Hon. Mr. Drea:** That's a very historic moment in Canada.

**Mr. Davidson:** I'm very pleased to see that that took place. I can assure you I will let our members be aware of it and tell them to notify their municipalities.

**Hon. Mr. Drea:** One of the problems is that you have to have a list there. In a lot of ways, snowstorms like that in this particular time are an act of God, and obviously God is on our side.

**Mr. Davidson:** That should get you some press in heaven.

**Hon. Mr. Drea:** He provided us with this great opportunity to show what we could do.

**Mr. Bradley:** What does "our" mean?

**Hon. Mr. Drea:** You and you and I. Mrs. Campbell isn't here, so I can say "He" is on my side. It wasn't because I'm from Scarborough. The controller in the borough of Scarborough, who is probably a little bit more attuned to our system because he served on the Metro Police Commission, simply made the phone call. We said okay, we'll introduce to Ontario the on-the-street work gang by sentenced inmates. The world did not come to an end. It took the Toronto Star and everybody else two days to find out that it happened.

Now we have community acceptance, we have community praise and we can go forward. I think that's very important because if you have programs particularly in this field that meet with community animosity, hesitation or resistance, then no matter how valid the program, it does not work.

**Mr. Bradley:** I thought I saw Mr. Warner shovelling snow last night in Scarborough after being punished.

**Mr. Warner:** Yes. It was the only thing I was allowed to do.

**Hon. Mr. Drea:** One of the difficulties with

the Legislature, with the chamber, is when I'm not there there appears to be great disorder.

**Mr. Warner:** We sent you to restore order because of your understanding of that.

**Hon. Mr. Drea:** A man of experience.

**Mr. Warner:** Yes.

Item 5 agreed to.

On item 6, information services:

**Mr. Bradley:** One of the problems I see in this—and I suppose it's not a problem in a way—is that I don't see any solution other than what you're doing at the present time. This is not overly a criticism, but what your ministry in effect is becoming is not the Ministry of Correctional Services but the Drea ministry. I think it's understandable because of the fact that you're the first minister who has had the intestinal fortitude to carry forth with some of these programs or at least publicize them and try to sell them to the public.

I've always felt that your party, if I may be a little partisan now and recognizing where it comes from, were masters of political propaganda, or salesmanship at least. I always admired very much your party's ability to sell to the public what they were doing. I recall listening to the radio before the 1975 election campaign. In an hour there were eight radio ads selling something the provincial government was doing.

**Mr. Williams:** It's easy to sell something that's good.

**Hon. Mr. Drea:** There's a fellow named Trudeau who is not exactly doing badly.

**Mr. Bradley:** He doesn't belong to the Ontario Liberal Party.

I don't see any alternative, because the headline in the paper isn't going to say: "Thompson Says Temporary Absence Program Is Working."

**Hon. Mr. Drea:** It doesn't fit.

**Mr. Bradley:**—despite the fact he's an excellent deputy minister. Anybody I have talked to as a member talks with great respect about Mr. Thompson, and I am sure he is highly regarded. In my brief experience discussing matters with him he has certainly shown himself to be in complete command of information about his ministry. Certainly he is doing an excellent job, but if he says something it's not going to get the headline in the Sun, the Star or the Globe.

I really don't know how we avoid it, other than having the minister go into the community and sell the program. I think it is very important these programs be sold. I find it almost tragic, looking at communication, to see some of the programs in correc-

tional services at the federal and provincial level torn down by the public because there is a failure rate. It must be disheartening to the people who advance these programs. Unfortunately, when there is a failure it's pretty glaring, and the public says: "Look what's happened. You've let somebody out, and he has committed a crime again." Yet there are perhaps 99 per cent in some cases who have not escaped, who have not committed another crime.

It must be most disheartening. That's why I think it's important and have to commend the minister for going out and trying to sell these programs to the community, even when they are unpopular.

You mentioned in your remarks that we don't have gun-toting guards in our institutions. If you asked the average person what a jail guard—using the old terminology—looks like he probably figures they are walking along the top of the wall with some kind of semi-automatic rifle, waiting for somebody to escape. Because that's what we are exposed to in fiction. The minister gets out and states: "This isn't what happens in corrections." Unless the minister does it, I don't know how it is ever going to get across to the public.

I see some good programs here. Being on the program committee of the Brampton Optimist Club back in my riding, I can see now that one of my speakers is going to come from the Ministry of Correctional Services. It is excellent to get out into the community and expose the community to what is going on in corrections today, compared to 20 years ago when you just locked them up and slammed the door. I think this is positive, and I encourage the minister to go on, even though I may be sorry next election time when he is re-elected in Scarborough Centre. Maybe I'll have remorse then.

I still think that in the interests of the ministry and in the interests of the people of Ontario the minister should be encouraged to continue going out across the province selling his programs and ministry.

[11:45]

**Mr. Warner:** You would concede that. We wouldn't.

**Hon. Mr. Drea:** The man is in a state of limbo. I wouldn't be venturing too many comments.

Let's discuss that for a moment. I don't want in any way, shape or form to attribute blame or responsibility for what has happened in the past. It is a collective blame that has to be shared by the entire government. When I say the entire government, I



mean the opposition parties as well. Corrections was not the most popular subject to go out and hit the hustings with.

It's also unfortunate that in our society we're so much influenced by the alien culture of the United States. We tend to believe that because everything here is almost the same as it is in the United States, therefore what we receive from them in terms of popular culture, on TV and radio, in books and periodicals and so forth, must be true here.

I make no bones about it, I said the day I was sworn in that we were going to be the most public ministry of all time. That didn't mean the minister was going to be the most public, it meant the ministry was going to be the most public.

If you had a minister whose name had nine or 10 letters it would not be in the headlines. It's a matter of fitting, and a four-letter word fits.

**Mr. Bradley:** I think I'll shorten my name.

**Mr. Davidson:** Be careful about that.

**Mr. Bradley:** I've heard many four-letter words used to described the minister very well.

**Hon. Mr. Drea:** I have been described as a four-letter word. But this is a very serious concern of mine. I have taken great steps internally within the ministry. I am prepared to sell or merchandise programs and concepts, and at least get the community to take a look at us and what we're trying to do. That can only go on for a certain period of time, there's no question about it. The public taste is fickle.

Internally, we've always had the problem of the civil service oath. A lot of people regard that oath never to reveal anything far too seriously. The intent is to protect confidentiality; you are certainly allowed to discuss what you're doing. A lot of people take that very seriously. They swore an oath and they believe in it. That was a bit of an impediment.

When you communicate, there are risks. Sometimes you don't communicate too well and there's a negative response. Since people within the ministry are professionals, and this is their life, there's a reluctance to put their life occupation on the line.

I have instructed all our superintendents of institutions to pass it right down the line—all the way down the line—that I want everybody out on the street. I want them talking about programs. I want them trying to interest people in our programs. If there is a backlash, it is my responsibility as the minister and mine alone. I will accept it.

I've done the same thing with probation and parole. We are a community resource and are part of the community. The only way we can be in the community is if people know what we're doing. The only way the average person, who has other preoccupations, is going to know about us is by virtue of the fact that the media will carry a message. At that point they can decide whether they want to read or hear that message. That's the limit to where we can go. But we are going to be on the streets, and I think it has proved successful.

Look at press clippings now compared to clippings of seven months ago. You saw superintendents, or other people who are talking to service clubs or whoever would have them, getting the usual two, three or four paragraphs. Now it's becoming plain that the media are very interested in what the superintendent, or whoever it is from my ministry, is talking about, because the coverage is getting more expansive and much more of a message is being conveyed. We have to do that, because I don't think you can be part of a community and not have the community informed.

I wish we could do it in an orderly, systematic, almost "educational" way, but it just isn't possible. The message that goes through the media, whether print or electronic, competes for people's attention. It is commercial in this country, and the public has become accustomed to this. If it's not on the 11 o'clock news, it is not of merit; if it's not in the Globe, it is not of merit. Nobody ever says: "What was left out of the Globe?" You know, you just publish a newspaper that thick everyday, and you put everything of significance in. If you're not in, the community ceases to regard you as a valid institution. If you were valid, your message would be conveyed.

We are working on that, and I have set up through our information division and so forth that I could be gone tomorrow and that program through which we now have some community acceptance will continue. That's one thing I was determined to do, because we don't want to be a flash in the pan. That's worse than never being there at all.

Through Mr. Kerr's office, one good thing which we are very involved with is hitting the high schools. First, we want to start people thinking about us as an occupation or profession. Secondly, even if they do not choose it, we want to acquaint them with it. This is our way of opening the doors so the public knows exactly what we are doing.

We are out in the service clubs, because the service clubs are a very integral part of the community. In most cases, they are the

finest of the community. They are the people who are community oriented, because they're in it. We're talking to professional groups. We are talking to various home study groups with people, housewives and so forth, who have very informal programs.

It's very time consuming, and I wish we had more resources to do it, but we're just having to make do—internally as well. A program that is only external doesn't work. You can have all the raves and whatever you want, but you take somebody who works in it, who lives next door to you, and you ask him about it. If he says it's a lot of bunk, it's over. I don't believe in PR men. The PR men for the ministry are the men and women who work in it every day.

That the minister will assume total responsibility if anything goes wrong has taken quite a burden off their shoulders. If there's any criticism, or people don't like what they read, I—right here—I take responsibility. It doesn't imperil their career at all. That's been a very significant step.

People are somewhat reluctant to go out. Most people are very modest and don't like being out there. They also don't like being put in the position where very intricate questions are being asked of them. They try to give an answer, and sometimes they're wrong. They don't like being held up to ridicule. It's a very natural tendency. In this case, if what happened went wrong, it's the minister to blame. I can handle it.

One of the most important things that has happened is the changed responsibility of the Legislature as a whole. In the past and in other jurisdictions, particularly at the federal level—mostly people of my party—there was the tendency to believe that there are votes to be obtained by taking a red-neck, narrow-minded approach. This plays to people's bias. It's very difficult to appeal to people's logic and to have to go through the very lengthy time to have yourself vindicated.

I'm very pleased to say that in this Legislature there has been nothing but support. There has been fair, honest and responsible criticism. I think that's essential. It shouldn't be a gravy train operation. I think the 124 members—particularly the critics, the leader of the main opposition party, and the leader of the New Democratic Party—are playing a very important role in the community. They are going forth either directly or indirectly. They are standing up for the things everybody wants done.

It is sometimes very expedient politically to take the quickest pulse, decide that's the way it is, and in the fullness of time get your

conscience to rationalize the matter. Because of the four letters in my name and other factors we have at the moment, by and large the groundwork is there. If I left this afternoon it would continue. It might be a different type of headline, because the next name mightn't fit, or so on and so forth, but it will continue. It's essential that it does continue. I don't think you can have a community resource, which is what this ministry is, without community acceptance and without being out in the community every single day of the week. That's the way we're going to do it.

It's very interesting that there aren't any similar ministries. It's a part-time job in every other jurisdiction, under either the Attorney General or Solicitor General. In Ottawa, it's a part-time job. There now is getting to be some interest that maybe this type of portfolio isn't the graveyard of a politician. I think that's a good thing. There should be a specific ministry of corrections in every other jurisdiction. This has been the fundamental difficulty in getting to the public. It's always a part-time job and therefore it gets part-time attention.

**Mr. Bradley:** That's a significant statement. There are a lot of people who thought it was almost a redundant ministry in many cases. Since you've taken over the ministry and been able to put forth many of the programs that your ministry officials have probably wanted to put forth in a very public way for a number of years, we now see a fairly good reason for having a separate ministry. I would have been one of those people who six months ago would have said: "Why don't you stick it with the Solicitor General and leave it there?" I would not be so quick to say that now.

**Hon. Mr. Drea:** I might be made the Solicitor General then.

**Mr. Warner:** You might even reform the court system.

**Hon. Mr. Drea:** No, that's the Attorney General.

**Mr. Warner:** You could work on that, too.

**Mr. Williams:** I echo the sentiments of a lot of the things that the critic for the opposition party has stated in a very positive way. I think it is something that's been lacking for some time. It's obvious that the fine hand of the deputy minister, in developing the programs for his ministry, has built into it his experiences and skills in the fields that he's had training in. They are obviously being reflected in a very positive way with the programs that you, Mr. Minister, are conveying to the public, in a very positive way as well.

**Hon. Mr. Drea:** I think incidentally there

should be a note of solace for the deputy minister.

**An hon. member:** He has to put up with you.

**Hon. Mr. Drea:** Yes. I was going to put it in a much more diplomatic fashion, but yes, he has to put up with me.

[12:00]

**Mr. Williams:** You are proving to be a very able spokesman in putting forward the deputy's programs, which obviously you have confidence in or you wouldn't be—

Interjection.

**Mr. Williams:** Well, there are so many accolades floating around in these estimates, it's mind-boggling. I am really trying to put this the way it is, because these programs obviously have been designed and in the works since the deputy assumed the responsibilities of the ministry. As I say, you are both to be complimented, because it is a positive, more humane approach to the whole correctional program. It's shifted the emphasis of the ministry from the traditional position to one of a much more modern, positive, innovative program.

I hope, however, it will reach a point of fine balance, where we don't become so innovative as to overlook the fact the people we're dealing with in the correctional institutions have created any misdemeanour or offence against society. We certainly mustn't go to the other extreme and portray the ministry as providing the facilities for one big happy holiday for a person who has got a little off the tracks, and has had the finger shaken at him or her for some transgression.

We are dealing with people who have committed offences, to varying degrees, against society. For that reason they have been incarcerated. Certainly the credits are there for the more positive and humane approaches being taken to this matter.

I don't think it should ever be portrayed to the public that those who are the responsibility of your ministry are not going to be dealt with with a firm hand during the time they spend in our correctional institutions. Socially speaking, they are treated in perhaps more lenient fashion, but that's not to be taken, I hope, by the public as shifting the emphasis from the essential program that it is, directing the public's attention away from the fact that we are dealing with people who have committed offences against society.

I am sure you will bring this fine balance to the ministry, perhaps lacking in the past, without taking it from one extreme to the other. Certainly the public should be made more aware of the program, the positive and

innovative steps, and the more humane measures. But first and foremost we must remember we are dealing with a very small segment of society who have until now not been a credit to, and have committed offences against, society. We must try to deal with them in that context, yet provide opportunities to them to make amends and retrain. Those who have not committed the most serious of crimes and offences, we should try to mainstream back into society.

It is important we don't overplay the hand in trying to go from one extreme to the other. I am sure you will maintain that fine balance necessary so the public will have a proper perception of the ministry and its responsibilities. It has arrived at a new plateau of delivery of services to those people who are wards, to use an outdated term, of our society.

Certainly, the information program that you are talking about is an important ingredient in presenting to the public a better understanding of this balance that you're endeavouring to bring about and that I know you'll accomplish during your tenure of office. It's with those few comments, Mr. Minister, that I wanted to try to look at both sides of the picture and rationalize them and realize we're trying to strike that happy medium that hasn't heretofore prevailed.

**Hon. Mr. Drea:** Mr. Williams, I find it amazing that anybody in the year 1977 would consider Mr. Drea to be a humane man. I am not a humane man. I don't think that any one of the programs I have introduced in any way, shape or form fits into the general category of humane.

**Mr. Williams:** I'd challenge you on that.

**Hon. Mr. Drea:** I am a very fair man. I play it by the book. I don't draft you into the system. You earned your way in. You're going to earn your way out. I believe in fundamentals. I believe in individual responsibility, individual accountability. I have been pilloried in certain sectors of the media—worse than anything in the United States—because they thought I was bringing chain gangs back. I am most comonly portrayed in a rather unnatural role. I am not a nasty or a tough person. I am firm and I am fair.

If I can be accused of being humane because I'm opening up Millbrook, I'm not opening up Millbrook on humanitarian grounds. I'm opening it up on a very firm and fair ground. I don't believe you can have a system where there is a dead end—where you are consigned to the dump and there's no way out of it. But you're going to earn your way out of Millbrook. You are going to earn your way out of that cell into that



converted chapel which is now a gymnasium. You are going to earn your way out over the wall into the prison camp and if you don't earn it then you're going right back into that dark and dismal cell. But you will still have the opportunity to try again.

One of the things in the past has been that labels are unfortunately attached—and maybe rightfully so. But just so there are no misunderstandings, I am not a humane man.

**Mr. Williams:** I disagree with that, Mr. Chairman.

**An hon. member:** What's wrong with being humane?

**Hon. Mr. Drea:** For a politician in the correctional field, unfortunately there have to be extremes, at least in public perception. The more the word gets around that I am humane the less public acceptance there is—somehow the idea will get around that we are back again on the side of the inmate rather than the system. I say very firmly to everybody I am not humane.

**Mr. Warner:** Your description of what you're doing sounds like you're a humane person.

**Mr. Williams:** Mr. Minister, I'm simply making the point that I think you have the ability, the capacity, and the personality to provide the proper balance that is needed in the system.

The only other point I meant to make was that while I think that bringing the program to the public in the fashion that you and the ministry are doing is a great move forward, I don't anticipate that it will always hold the high profile in going to the public at large because it's related to a program that deals with a very small percentage of our society. There are so many other ministries and government programs that are designed to accommodate and directly serve the vast law-abiding percentage of our society.

**Hon. Mr. Drea:** Yes. Yet it's one that has frustrated, bewildered and perplexed the public since almost the beginning of time.

**Mr. Williams:** That's right, because of it being something that was almost hidden away in the closet as a ministry and a program and therefore misunderstood and unknown. That, you are certainly correcting.

**Hon. Mr. Drea:** I want it appreciated that I am not a humane man. If we can convey that to the public, we can proceed much more swiftly in many directions.

**Mr. Williams:** You're a practical man. I guess I could best say you're a practical man.

**Mr. Bradley:** Okay, you're a barbarian.

**Mr. Williams:** That contains an element of humanity, I guess.

**Hon. Mr. Drea:** Mr. Lawlor has made certain suggestions in one of his profiles as to my state of life. That may be a more accurate description.

**Mr. Vice-Chairman:** More accurate.

**Mr. Williams:** In any event—

**Mr. Vice-Chairman:** His bark is a hell of a lot worse than his bite, I think.

**Mr. Williams:** In any event, you've accomplished a lot and I'm sure you'll continue to keep the program before the public—which heretofore it hasn't been to any great extent. But to expect that it will be uppermost in the public's mind at all times just isn't going to be the case. As I say, it really pertains in a very direct and personal way to that very small segment of our society—people who have committed offences against society.

Other government programs and services for which we pay taxes are the ones that will be looked to by the public at large on a more continuing basis, because they're intended to provide personal benefits to us, the taxpayers. So with those recognized differences and priorities, you will be hard-pressed to keep the public continually informed. But I think you're making great strides in doing that at this time.

**Mr. Davidson:** If I may, I'd just like to say a few words here. Most of what I could have said would have echoed others, mainly Mr. Bradley.

**Mr. Vice-Chairman:** Don't go making him humane now.

**Mr. Davidson:** I don't think the minister has the opportunity to judge himself as to whether he's humane or not, I think that has to be left up to other people.

**Hon. Mr. Drea:** I just don't want to get into another semantic battle with the public. I think the accurate description of what the ministry does is firm and fair. I think if we can convey that to the public then we'll not get into the endless arguments over different approaches. That's all I'm concerned about.

**Mr. Davidson:** I think in my opening statement I mentioned that you had, if nothing else, at least brought some sense of humanity into the correctional system. So I don't know whether that makes you humane or otherwise. There are several things; I, too, appreciate the way both yourself and your ministry are bringing these programs to the public and making the public aware of what it is you are trying to do.

The Correctional Update, I feel, is an excellent little booklet and I'm wondering if

there is any thought of maybe expanding its distribution, perhaps sending it to municipal councillors.

**Hon. Mr. Drea:** Could I introduce Mr. Donald Kerr, director of information?

**Mr. D. Kerr:** At the present moment—I don't know if it has been mentioned here—the Correctional Update is distributed to all police detachments in the province and to judges. It's a matter, I suppose, of how far you send it. If you send it, for example to the municipal councils, would you send it to the school boards. And where do you stop? Where do you draw the line?

**Mr. Davidson:** I was going to suggest that.

**Mr. D. Kerr:** How many people would be interested in it?

Essentially, we put it together for our own staff and for staff morale. The reason we send it to police and judges is that we're all part of the correctional process and I think we have to understand one another.

It's something we could consider. I just wouldn't know where to draw the line.

**Hon. Mr. Drea:** I think I know what Mr. Davidson's getting at. I think we should start going to the municipal council end at least.

**Mr. Davidson:** I would think so.

**Hon. Mr. Drea:** More and more we're having to deal with municipal councils, which reflect public attitudes; and their debates are held in public, much more so than the Legislature.

**Mr. Bradley:** And they spend half their time dealing with matters outside their jurisdiction.

**Mr. D. Kerr:** I think it might be worth looking at.

[12:15]

**Hon. Mr. Drea:** The other thing, too, is the federal government. They are having the greatest of difficulty with municipalities all across the province in terms of new sites, new locations. I think that might be something we should have a look at.

**Mr. D. Kerr:** I think one of the difficulties would be from a news point of view. Covering the Cambridge area and some of their concerns we described the closing of Grandview and those sorts of things but the problem with a bi-monthly publication is that your news is two months old by the time it gets to people.

**Mr. Davidson:** I wasn't looking at it for that purpose, but it may very well help to clarify in many people's minds the reasons behind such moves. You mentioned Grand-

view; you are talking about months of continued controversy. Even today it is in the news. Perhaps if some of the information were put out—such as in this one for example, the one when you first decided to close Grandview; had the municipal council received something like that and been made aware of the program that had been outlined there might not be the problems with some of them that there are today.

**Mr. Lawlor:** This is a sort of diversion, in a broader area too.

I want Frank Drea to know that I am quite impressed at this stage with what he is doing. I grudgingly give the man points—not too grudgingly. What you are doing though, accepting the system as it stands, although I suppose as a ministry you haven't much alternative, but accepting the system as it stands you are giving alleviations, earned or otherwise, within that context and making it possible for people to adjust themselves to a decent society.

In a broader area, you sit on a committee with the Solicitor General (Mr. MacBeth) as chairman, and we'll be doing those estimates very shortly. At least you are prepared to break the mould, you are prepared to try to innovate, there's a little creative thinking going on. This is probably the only area in which I can see anything of the smallest stirring of the grey matter in the whole system. With that in mind, you can do yeoman's service on that committee. MacBeth sits there like a bump on a log and—

**Hon. Mr. Drea:** That's very unfair.

**Mr. Lawlor:** —will move nothing.

**Hon. Mr. Drea:** Mr. Lawlor, I am the longest serving elected member on the cabinet committee to suggest this policy. I have been there since May 1974. I have been there while there have been three Attorneys General, two Solicitors General, at least two Provincial Secretaries for Justice, three Ministers of Consumer and Commercial Relations and four Ministers of Correctional Services. If you want to attribute any blame or lack of effort upon the cabinet committee on Justice policy, or the provincial secretary, then Mr. Lawlor the buck starts right here, because I have been there the longest.

**Mr. Lawlor:** All right. At least you have some clout now. Previously—

**Hon. Mr. Drea:** Mr. Lawlor, I have always had clout.

**Mr. Lawlor:** No.

**Hon. Mr. Drea:** There have been great things come out of there. Gun control came out of the cabinet committee on Justice policy.

That was an election issue in 1975. There was a full and firm declaration by the Premier (Mr. Davis) in a speech at Windsor, which started that campaign off. We said that if the federal government would assume its responsibility, the province would back off because we thought the national good was more important, and rightfully so. That's one thing that has come out of it.

Secondly, the Attorney General (Mr. McMurry) has done enormous things in the court system. No question about it. I would not be in the position that I am to have community work orders were it not for the Attorney General of this province. In the field of corrections, I would not be in the position that I am in now where these programs are in place and can be put out to the public were it not for the work of the Deputy Provincial Secretary for Justice (Mr. Sinclair), who has previous associations with this ministry, or by Mr. Thompson.

I happen to regard the Provincial Secretary and the Solicitor General, Mr. MacBeth, as a very progressive, enlightened person. As a matter of fact Mr. Lawlor, I will say to you in complete candor, I admire John MacBeth enormously.

Mr. Lawlor: You sure upset his apple cart the minute you moved in—and a whole series prior to him if I may say so. The last man I remember who was inventive and moving ahead was Grossman.

Anyhow, you are a self-destructing ministry. I hope you regard your ministry as that.

Hon. Mr. Drea: Yes, no question.

Mr. Lawlor: Your chief job, and you can't do it where you are sitting now, is not to be using those jail facilities as such. In the long run, humanity or not, because of its internal masochism and what it breeds inside, you're going to have to eliminate that system and you're going to have to eliminate that job. I don't suggest you eliminate yourself yet, but hold onto your hat. You can't do it, that's what I am saying at the moment.

Hon. Mr. Drea: Every day that I go to work, every day that everybody in this ministry goes to work, we are ultimately working at eliminating our own jobs. I am realistic, it won't happen in our lifetimes; but that is the goal, that we will be able to do in society the things that we cannot do now so that there is not the question of incarcerating an offender.

I realize that there will never quite be a perfect world, at least theologically, you and I agree on that. I am not out to perpetuate a ministry. I am not out to perpetuate a system. The goal in this ministry, and it has to be

that, is that at some future time our successors will no longer be needed. If you don't operate this ministry in that manner, Mr. Lawlor, with all due respect, you are not only doomed to failure as an individual but you are dooming a great number of people in the future, almost by consignment, to something that could be corrected.

Mr. Lawlor: Just one final word on this. The Globe and Mail this morning has an article by Judge Leslie Bewley.

Hon. Mr. Drea: My old friend.

Mr. Lawlor: Is he an old friend of yours?

Hon. Mr. Drea: I am surprised that Leslie is still alive, although I read one of his speeches in Quebec City two months ago. I was surprised then that he was still alive. The last time I saw him he was the prosecutor for the city of Vancouver. I couldn't understand how he could be a judge and a prosecutor, but in Leslie Bewley's context I suppose it would be considered normal.

The difficulty with people like Judge Bewley is that unfortunately they do not have the inner resources, Mr. Lawlor, theologically, that you and I do. Judge Bewley obviously believes in a perfect world, and if you are imperfect that you must be struck from it. Unfortunately I do not believe in a perfect world—at least the material world—and I do not think it will ever be achieved; therefore I am fully prepared to accept the vagaries of the human condition, not the least of which is my own individual human condition.

The difficulty with the Judge Bewleys of this world—and Judge Bewley if he were in this room would argue that he is very humane—but his difficulty is he just believes in blacks and whites; no shades of grey, no excuses, no human conditions.

The world that Judge Bewley wants is a world that I, quite frankly, would not want to be in, because it would be composed of unthinking robots who march forward and backward and sideways by direction, where the human condition could be instantly tempered or judged by a machine, which I regard as totally repugnant. Therefore, when I read Judge Bewley's utterances in Quebec, which had to deal with people like myself, I must say all I read of this was the headline and I wanted to see which character wrote it. The minute I saw Judge Bewley, well quite frankly I reserved that for my weekend reading, because you know from time to time I need a little bit of relaxation.

This is great stuff, but quite frankly in a world where paper is an extremely precious commodity and three-quarters of the people don't have paper, it is one hell of a waste of



money. If this is the best in legal thinking that can be brought east from the province of British Columbia, then with all due respect God help British Columbia and the people who reside there.

Item 6 agreed to.

On item 7, analysis, research and planning:

**Mr. Bradley:** Mr. Chairman, I've got a couple of questions. It's a fairly wide item.

**Mr. Chairman:** Can we agree to go to 12.30 p.m.?

**Mr. Bradley:** Whatever time you say is fine with me.

**Mr. Chairman:** We've got seven minutes according to my watch.

**Mr. Bradley:** I'll skip over a couple of things I might have asked about. One quick question, and probably one of Mr. Drea's officials would want to answer this. They have a consultant in psychology and it says he's visited several of the institutions throughout the province. What is the extent of his duties? What precisely are his duties? I know he visits, but what exactly does he do?

**Mr. Thompson:** If I can just initiate a response to that. Dr. Humphries is our adviser and senior medical consultant, and certainly can talk in more depth than I can about the activities of consultants in general in the ministry. On Dr. Coons, who is not here, I can speak specifically.

We felt a need in the serious professional disciplines in the ministry to have a link with a person who is quite senior and recognized in that discipline, and usually that person is also part of a university faculty, as Dr. Coons, is at York.

The function of those consultants over the years has been to comment on the changes that we may require from time to time in the delivery of ministry services in psychology, and also to provide a staff training component to the psychologists who are in the ministry. So I see them meeting in an advisory capacity. Through those individuals we also have a link with the training institutions where we can provide feedback from our own staff, professional or otherwise, to the training institutions so that we can say to them what they are providing for us seems lacking in these areas or is excellent in these other areas.

The functions performed are multiple, really, and fairly important, I think, to the activities of the ministry.

Several of the consultants are at this time also engaged in projects where they are updating, and redefining to some degree, the goal statement that the ministry uses, setting

out in non-jargon terms a set of goals the ministry can use to operate by.

The goal statement written for the ministry some years ago doesn't even reflect some of the process, the probation service activities, for example, weren't with us at that time.

They are involved in a multitude of activities and those are some of them.

Dr. Segal, who is the consultant in social work, if I can just go on for a moment, was heavily involved in a study conducted at the University of Ottawa and the Carleton School of Social Work for the national advisory group on staff training. A study was done on training for correctional officers across Canada, it was an example of sharing between the different ministries across the country and the federal government. Now we have a project in our ministry on training, giving opportunity for programs based on that study; we are trying out a different style of training correctional officers. Dr. Segal was part of the original study and is now part of the implementation program where it takes in a wide ranging set of values.

**Mr. Bradley:** Fine, that answers my question. In my opening remarks I mentioned the need for short term assessment programs so that ineffective programs could be discarded and replaced rather quickly. Can the minister, or one of his officials, tell us about the duration? There are several studies listed on page 43. Can you tell us about the duration of the studies which are listed? When you expect them to be ready for distribution and who they are going to be distributed to?

**Mr. Thompson:** I think we would ask Dr. Hug, our director of the planning and research branch to speak to that. He can give us an update on each of the studies outlined there.

[12.30]

**Hon. Mr. Drea:** Just to the last answer, as soon as they are available the distribution starts in the Legislature and goes on from there. Some of these are basically an internal thing. One that we have coming on stream is the remand study, which is considered to be probably the most important look at the courts in 20 years. That goes immediately to the Legislature, and will have to be widely distributed by the Attorney General's ministry to the courts. The focal point, right off the bat, is the Legislature; then, depending upon the particular topic that has been researched, or its interest, the circulation may be very wide or relatively small.

**Dr. Hug:** Mr. Chairman, the first item on page 43, the staff attitude towards the abat-

toir programme at the Guelph Correctional Centre, the reports have been received back from the printer. They have been approved for public distribution and the mailing is currently under way.

**Hon. Mr. Drea:** Obviously, in that case the Food and Allied Workers Union will be interested, because that's the only place in Canada I know where there's a collective agreement in an institution, and that obviously has some ramifications for them. In that case they would get in. In ordinary cases the labour organization wouldn't get it because it's not of interest to them.

**Dr. Hug:** The second item on that list, to go quickly through it, study of inmates on remand, that also has been approved for distribution.

**Hon. Mr. Drea:** That's the Ottawa one I am talking about. Well not so much Ottawa, it does the whole province, but it sheds a great deal of light on the Ottawa situation.

You have more there. Please, we always get accused of having no research; poor man, it's the first time he's been here and not been criticized.

Interjections.

**Mr. Williams:** There's quite a bit of research. To do justice to it I do not think we can cover it in the next few minutes.

**Hon. Mr. Drea:** No, no; this is on the times these are coming out. I think we could do that now, if you don't want to go into the research specifically.

**Mr. Williams:** On the timing only, I see.

**Hon. Mr. Drea:** Yes, when they were coming on stream, that was all.

**Dr. Hug:** The third item concerns probation, parole and after-care officers. That, in fact, has already been released to the public.

The fourth item, the study of adult and juvenile probationers, is currently almost at the printers. We're finalizing the final text of it. That should be distributed in public fashion within a month or so.

The fifth item deals with characteristics of juvenile wards and probationers referred to family service agencies. This item, of course, pertains to the juvenile division, which is now part of the Ministry of Community and Social Services. Our deputy minister, Mr. Thompson, has passed along the research advisory committee's recommendations to Judge Thomson in ComSoc, namely that this report be distributed publicly. We will make available whatever copies he would like out of courtesy and out of proper procedure, since the program is no longer with us. Even

though the research was conducted while the juvenile division was still part of this ministry, we don't think it is right for us to distribute this. We have not heard from Judge Thomson yet as to his wishes in this regard.

The sixth item has been received from the printers. It refers to norms and recidivism rights for first incarcerates; that has been approved for public distribution.

The seventh report is presently being read. There is no way to prejudice whether or not that will be public, but since that comes out of the same study as item six, if I can venture a guess that probably will also be approved for public distribution.

**Mr. Bradley:** I was wondering if the minister would be satisfied that the research program that he has going within his ministry is linked directly to ministry activities. We all know that while research has in the past been carried on in certain other ministries other than your own ministry, research reports are often simply shelved. It seems to me the research report should reflect strictly on your ministry and not go into other ministries, unless it is related. Can I get your assurance that you are going to be acting on this?

**Hon. Mr. Drea:** Our number one difficulty is that there are very few things we can look at within the context of our own ministry, because we are inevitably tied in with other aspects of the Justice system, and in most cases we are not in control of our own destiny.

We find things happening in our institutions because of clogged courts. Obviously, we can take one of two routes: We can say, "Well, it's inevitable that the Attorney General look at the clogged courts." We haven't. We take a look at what's happening with remands; part of clogged courts all right, but it also involves part of our jail population; and it should be that way.

There are a lot of things that are entirely within ourselves, but there are other things that we can't avoid. If we are going to talk about parole we have to look out into the community where part of that jurisdiction lies with Community and Social Services: What community resources are available in terms of social assistance and that kind of thing; is that where the thing is breaking down?

As I keep saying, we are not a self-contained ministry. We are like an island; everybody else is around us and there's very little that we do that doesn't one way or the other affect them; and what they do affects us. So we try to keep it within ourselves, but inevitably the solution to certain of our problems can only be found in other areas; so we have to do that, to branch out. But I think

the most advantageous way of making sure reports don't get dust is to hand out 125 of them in the Legislature.

I am not saying that everybody is going to read it or anything else like that; but that is the only absolute way I know that it won't gather dust.

**Mr. Chairman:** Before entertaining the move for adjournment, I have to tell you that we will be meeting back here at 2 o'clock sharp. We will be trying to deal as expeditiously as possible with the Thunder Bay bill, I do not expect that it will go more than an hour. Some of the conflicts between the Treasury

and the Thunder Bay people have been solved through private negotiations. Hopefully, we will start again on these estimates at 3 o'clock. We will have two hours and 20 minutes left, so the members might keep that in mind.

Would you also inform your caucus members who are members of this committee and may be involved in other estimates, to please try to be here at least for the Thunder Bay bill at 2 o'clock?

**Hon. Mr. Drea:** So you want my staff here? We'll be here and available at 3 p.m.

**Mr. Chairman:** And we will go to 5:20 pm. The committee recessed at 12:38 p.m.



## CONTENTS

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Wednesday, December 14, 1977

<b>Ministry Administration Program</b> .....	J-87
Training and Development .....	J-87
Information Services .....	J-100
Analysis, Research and Planning .....	J-107
<b>Recess</b> .....	J-109

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Cureatz, S. (Durham East PC)  
 Davidson, M. (Cambridge NDP)  
 Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
 Lawlor, P. D.; Vice-Chairman (Lakeshore NDP)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Warner, D. (Scarborough-Ellesmere NDP)  
 Williams, J. (Oriole PC)

**Ministry of Correctional Services officials taking part:**

Thompson, G. R., Deputy Minister  
 de Domenico, J., Director, Staff Training and Development  
 Daniels, A. F., Director, Personnel and Acting Executive Director, Program Consultation and  
     Development Division  
 Hug, Dr. J. J., Director, Planning and Research  
 Kerr, D., Director, Information Services









No. J-5

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Justice Committee

Estimates, Ministry of Correctional Services



### First Session, 31st Parliament

Wednesday, December 14, 1977

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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## LEGISLATURE OF ONTARIO

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WEDNESDAY, DECEMBER 14, 1977

The committee resumed at 3:32 p.m.

### ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (concluded)

On vote 1501, ministry administration program; item 7, analysis, research and planning:

**Mr. Davidson:** One of the things that bothered me when I toured the Don Jail was the fact that with the large number of inmates, they didn't have available to them a full-time psychiatrist. What they had, I think, was someone who came in on a periodic basis; and in addition to that they had only one full-time social worker on staff at that time, a young woman. There were, I believe, close to 700 inmates in the jail at that time, and that seemed to be quite a load for the psychiatry people and social worker to be dealing with. I just wondered if this was the case in other institutions.

**Mr. Thompson:** Dr. Humphries is our senior medical consultant, very much connected to the process of recruitment of psychiatrists. I must say we have had quite good luck in expanding services in that area across the province recently, and that has been done partly in association with a unit developed here for the Attorney General (Mr. McMurtry) to assess from the courts; it's called METFORS, Metro Forensic Service. But I'll let Dr. Humphries say some more about all those things.

**Dr. Humphries:** Mr. Davidson, we have been working in this direction, especially over the past year, trying to get overall coverage; and rather than discussing numbers, it's the kind of coverage which we are most concerned about.

The development of the METFORS unit is to provide coverage for our remand assessments, a large number of which are at the Toronto Jail. What we eventually want to do is use the METFORS unit as a pilot project and then develop similar things throughout the province if we can show that it does work effectively. This would therefore mean that in psychiatric hospitals, at regular places, we would develop a similar type of unit and then this area would be

responsible for the overall forensic services for the catchment area of that hospital setting. This would then mean that the people involved would work in respect to remand assessments as well as providing psychiatric coverage to each of our institutions throughout that catchment area. They would also be involved as well in training for staff, in making regular rounds to the institutions, knowing that when an individual needed to be admitted to hospital the medical people would already be on staff. We would hope that these units would also be associated with universities and then the individuals—that means that none of the ones which we presently have would be let go—would be given joint positions between ourselves, Health, the university and this sort of thing.

As I say, METFORS is a pilot project and in order to indicate that we really are behind this kind of model, we have taken Dr. John Dacre, who is our director and psychiatrist at the Guelph Assessment and Treatment Unit, and seconded him to the new METFORS unit. In so doing he is still our employee, paid by us, and has all of his benefits through Correctional Services, but he is directly under the supervision of Dr. Ed Turner, the director of the METFORS unit.

We are also in the process of arranging standing for him with the Clarke Institute and with the University of Toronto. I've talked with Professor Lowey in this respect. As a result, Dr. Dacre's job is to provide overall coverage to the Toronto Jail and the two detention centres on a full-time basis to help to carry the load of which you speak. Also, because he is an integral part of the METFORS unit, this means that when one of their people is not available, he will be expected to do remand assessments, and when he's not available, they will be expected to provide this kind of coverage—for instance when he's on holidays, this sort of thing.

Just recently, the Ontario Mental Health Association for the Toronto area made a recommendation that the psychiatric unit at the Toronto Jail should be under the supervision of Mr. Jappy in the Ministry of Health; he's director of psychiatric services.



I talked with him just this past Friday when he phoned me up to ask me if I was aware of this recommendation and to ask what we should do about it. My comments to him were that we would be quite prepared to discuss this further, because this is not a bad idea in any way. But I also explained to him that in many ways, although this was our unit and our staff, it was very much under his supervision indirectly because our psychiatrist was seconded and responsible to Dr. Turner. So he seemed quite happy with that response.

So we do, yes, have psychiatric coverage throughout the province, whether you want to discuss Millbrook or wherever. This is the direction in which we wish to go and we are moving in that direction.

**Mr. Davidson:** Is this a program which has been developed in other areas and now you're trying it here, or is it something new?

**Dr. Humphries:** No, it's something emerging from discussions between our own ministry people and the Ministry of Health; that is how we started to think along these lines. We do recognize there are restraints programs. As a result of these it may be that some beds will become available in psychiatric hospitals. I can't state that definitely, but it's a possibility. Recognizing that there's a very real need for these kinds of forensic approaches, it seems so reasonable at this time to start thinking along these lines.

Also—and I have worked out the statistics in it—I know we have a fair number of suicides; but in actual fact it's less than in the general population, and it's also less than in the psychiatric hospitals. However, if we could in fact develop these kinds of demand assessments where the individual who appears to have trouble could be picked up much earlier throughout the province, I still think we could cut down our suicide rate much more.

**Mr. Davidson:** Fine, thank you. I have nothing further.

**Mr. Williams:** That gives us a good overview of the program available. I don't recall our touching earlier on the program involving lay people, the volunteer program branch in particular. I'm not entirely clear how this work force is made up. We've had a pretty capsule comment or résumé on the numbers of people involved—I gather around 3,700 people—but how do you go about drawing on these volunteer resources? This may not be something that you would be involved in, apart from the professional end of the operation.

**Mr. Thompson:** I'm sorry, sir, I missed the first part of the question.

**Mr. Williams:** I was just wondering how the people in the volunteer end of your program's consultation and development division are collected or get involved. There presumably must be some degree of monitoring these people for security reasons or whatever. I'm surprised at the number of volunteers who appear to be involved in the program. How this is developed and supervised is of interest to me.

**Mr. Thompson:** The organizational structure has a co-ordinator at our main office and then a regional co-ordinator set in each of the regional offices, of which there are four, so that we tie the overall structuring of the operation together in that way.

In the larger institutions now, increasingly we have people on a three-day week contract to co-ordinate the volunteer programs. I guess at the time we had the training schools, the one in Oakville was the first to have a person experiment for that kind of model and it worked so extremely well that we have begun to use it increasingly. I suppose rather in the manner the ministry was being discussed this morning, as something that should try to work itself out of business, we think the volunteer co-ordinators at the main office and in the regions ought eventually to work themselves out of business; the function ought to be able to be performed locally, either within probation and parole, or within an institution. But we are some time from that point at this stage of the game.

As it notes here, there are about 3,700 volunteers; and it's the idea of the co-ordinator of volunteers that we ought easily to be able to have 10,000 operating in our system. In Japan, where volunteerism seems to have gone far ahead of our own structure, they have literally tens of thousands of people involved in volunteer programs, interestingly enough. So our objectives are to have many more people in contact on this, but the actual recruitment of volunteers—if I can take an area that I am familiar with, the Brampton area—has been done over the years through either church organizations or structures such as the Elizabeth Fry Society, which has a branch office there. They have aided because of their contacts in the community. They were sending a message out, if you will, that there are volunteer activities to be performed. And in having the people come in through their organization, they have, in a sense, provided a first-level screening for us to try to eliminate some of the people who are just there on a curiosity-

seeking kind of exercise. They have usually put people on activities that are fairly mundane for a period of time to really test out whether or not they are truly interested and prepared to get down to business and learn something about the system.

If that proves to be true, then we bring them into the institution and the volunteer goes through a form of basic orientation to the kind of security needs of an institution. Once through that process, then they are assigned to just an astonishing variety of activities.

I happened to be at the volunteer recognition night we have annually in different regions of the province. I happened to be in the one in Brampton a week or so ago, and the people there ranged from a woman who had just signed on as a receptionist in one of the probation offices, helping out in the evenings there, to another lady who was a trained psychologist coming in to provide that kind of part-time service as a volunteer at OCI.

So there is a complete range of services in the probation and parole services. It's quite common now for people to be aiding in the preparation of pre-sentence reports; and the courts have found their work quite acceptable. In many ways they are doing just a fine job, and of course it has all sorts of advantages for us because the volunteer is the best advertiser we have in terms of presenting the system to their friends and neighbours and the public.

They also provide an excellent auditor in institutions. I think they are the best guarantee to all of us that institutions are not doing things they ought not to be doing, because this person hasn't any axe to grind. Being at the institution they can simply watch and observe and go home and report on it if they want to.

In addition to that, they provide time, and I think that's probably the biggest resource they deliver for us. The staff in probation and parole are very pressed for time. With young people, especially, who need a great deal of supportive assistance—not counselling really but just supportive assistance—somebody who can spend four hours a week is liable to have a great deal more impact than a person, however well professionally trained, who may only have a half an hour a month. So the advantage is largely in time.

As I say, the variety of activities the volunteers are involved in has really been a very interesting thing to watch.

[3:45]

Mr. Williams: Have any of the volunteers

been previous offenders or had any family relationships to people who have gone through the system or are in the system? If they were, do you impose any restrictions or prohibitions on people who may have an interesting past involvement through some member of the family in correctional services programs?

Mr. Thompson: Well interestingly enough, the minister had a small gathering last evening of some of our staff and people in the Toronto area, heads of agencies that are province-wide, to say both a Christmas "thank you" and also to talk about a report concerning the role of private agencies in the criminal justice system. Two of the people at that meeting are ex-inmates, operating agencies themselves or senior executives in agencies; so from that point of view, ex-inmates are, in fact, out there doing it.

We have to be somewhat cautious that institutions understand the pressures involved in letting people back in as volunteers immediately after they get out. The pressures on them, since they know the ropes, are very great sometimes, to lug drugs or whatever else back into the institutions. We really feel they need a period of time to show some degree of stability, especially in the more secure institutions; but there certainly are volunteers coming in regularly who have been in those institutions as inmates at one time, and they speak with some real authority to the present inmates.

There are many staff who have been inmates as well, so that it's not the kind of thing confined only to the volunteer group.

Hon. Mr. Drea: Better say that again, slowly.

Mr. Thompson: Well, I guess we have, at any one time, probably over 200 staff who have been in institutions at some time or another in their life and who have a record of some sort. Not necessarily a particular serious one, but in some cases that's true too. These are people who have gone out and developed a kind of stability that leaves them as reasonable candidates for employment. They work in all aspects of the system, from clerical work to correctional work, as they did in the training schools division.

Mr. Williams: These are staff over and above volunteer staff?

Mr. Thompson: Oh, yes.

Mr. Williams: Over and above volunteers, approximately 200 or in excess of 200?

Mr. Thompson: Yes, Mr. Daniels may have a more precise figure than I do on that.

Mr. Daniels: There are approximately 250

ex-offenders, 150 of them on the front line as correctional officers, and 27 clerks, recreation officers—a number of them clerical people—four probation and parole officers; and a deputy superintendent and some who have risen through the ranks to shift IC's, et cetera. It's a normal practice to allow them to be hired and to encourage them to come back as correctional staff. Some of them have gone on and got their BAs and BSWs, et cetera, and come back.

**Mr. Williams:** You indicated that for those who have been previous offenders and are now either volunteers or are being considered for staff, that usually there's a time period between being released and employed. Is it a set time period or is it determined on individual merit?

**Mr. Daniels:** It's basically an individual decision. I would look to a limit of two years outside the system after discharge from an institution. We start looking at it then and talk to their probation officer and the people in the institution.

What kind of inmate were they? What kind of probationer were they? They may get a very strong reference from those people saying that if they can turn themselves right around they would be an excellent employee. Our own employees do the reference check for us.

It's perfect, you know. We know the commodity for sure; it is one of the best types of employee-employer relationships you could get.

**Mr. Williams:** But usually you will go, on a minimum, a two year waiting period.

**Mr. Daniels:** Yes, we look at about two years.

Item 7 agreed to.

Item 8 agreed to.

Vote 1501 agreed to.

On vote 1502, rehabilitation of adult offenders program; item 1, general administration:

**Mr. Bradley:** Do inspections come under this? How is the staff distributed in inspections throughout the province? Is there a set staff-inmate ratio that you follow across the province at all?

**Hon. Mr. Drea:** Are you talking about our inspections branch?

**Mr. Bradley:** Yes.

**Hon. Mr. Drea:** What do you mean by inmate to staff?

**Mr. Bradley:** In inspections first. My second question is do you have a set ratio of staff to inmates in your institutions?

**Mr. Thompson:** From the report there are eight people who are actually either inspectors or managers in that small branch. It works out of Toronto. Mr. Hughes, having been chief inspector at one time, I am sure can speak to the detail of the functions of that group.

**Mr. Hughes:** The inspection branch performs two vital services within our ministry. One is the regular inspection of all institutions. Each institution is inspected at least once a year, more often when time provides.

The second function is the investigation services provided by the branch. That covers a wide range of work inasmuch as an investigation can be ordered as a result of an escape where there may be some doubt as to whether negligence was involved. There are also investigations concerning allegations of assaults by inmates against staff, and a whole range of situations that can develop in any penal institution.

I might add that our inspection and investigation branch is one of the best on this continent in terms of integrity and services performed.

**Mr. Bradley:** Is this where the minister contends that the Ombudsman's office assists or is it not in this at all?

**Hon. Mr. Drea:** No. With respect to the inspections branch, if you take out the one category, that obviously we have to have a continual look at institutions to make sure they are secure and so on, we are in the same position really as a police department dealing with its internal affairs. Somebody has to investigate at the point of first instance when allegations are made that correctional officers haven't followed the rules, whether it is something such as an assault or something infinitely more complicated. There has to be an initial source of investigation.

This really has nothing to do with the Ombudsman, because we are compelled to do it. If there has been a violation of the rules, then obviously criminal charges must be laid. That material is turned over to the Crown or to a police department. Pretty basically, the rule of thumb is when they get to a point where it appears there might be sufficient evidence to warrant the laying of an information we turn it over to either the Crown or the appropriate police to do so.

The Ombudsman's role is overall inspection. I suppose if someone complained directly to the Ombudsman that he had been assaulted by a correctional officer and the complaint was not made within our institutions or in any other fashion to bring it to our attention



first, the Ombudsman's office might start to investigate. I am certain that under their investigation too that they would immediately, when they reached a certain point, turn over the aspects of the Criminal Code offence to the proper authorities for disposition. I suppose they might very well, after the disposition of that matter, want to make comments or something, but they are really entirely different. The inspection has always been there and it has to be there because—the same as with the police department—we are in physical control of people, the same as a police officer is. The same sanctions that apply under the Criminal Code to any peace officer also apply to a correctional officer. The easiest I suppose is the doctrine of reasonable force. So it is an entirely different function from that of the Ombudsman, although as I say the Ombudsman might well become involved in it, except that I don't think it would be a function the Ombudsman would want to fully discharge because the obvious remedy in the discharge lies within the Criminal Code, which is the other aspect of the criminal justice system.

**Mr. Bradley:** The second question I had in this particular section was on your ratio. I suppose it varies from institution to institution, but do you have a general rule of thumb on what your ratio of, let's say, front line officers is to inmates?

**Mr. Thompson:** I'd like to ask Mr. Daniels, the personnel director, to speak to that. It varies very greatly from institution to institution and he may want to describe to you in detail our negotiations with the union on this very area.

**Hon. Mr. Drea:** Before he does so, I wonder if the committee might like to pause for a moment. I think this is an appropriate time to put into the record that this will be Mr. Hughes's last appearance before a committee of the Ontario government, because on December 31 Mr. Hughes will be retiring after 20 very distinguished years of service with the ministry. It may be of some interest to you that I understand, on the most reliable of authority, because the man who informed me is now running the road gang at Mimico, that when Mr. Hughes first came into the ministry in 1957 he inherited the road gang at Mimico. There was one back then.

Since then he has gone on to a very distinguished career. He has been, I am sure, at virtually all our estimates, at least in committee, and certainly has been providing little notes and so forth that go to the minister when the estimates were in the House.

I think the record should show, since our estimates will end today, that he has one last function to perform, as everyone knows. This is the Mr. Hughes who gets the golden sledgehammer that smashes the Don on the afternoon of December 31.

Since Mr. Hughes was the one person who always said that the Don not only should be closed but could be closed, and for a great many years, I think that is appropriately a fitting end to his career. Also, since the Globe and Mail is preoccupied with why I pick certain dates, that was why I chose December 31; it was to have some recognition for Mr. Hughes for a very distinguished career.

**Mr. Bradley:** Before we continue, I join, I am sure on behalf of my party and many other members of the Legislature, in adding to your words of congratulations on the fine years of service that he has given to the ministry. Certainly we wish him well in his own personal future. I think that was a very significant comment you made when you used the words "could be closed," because everyone said it should be closed.

**Hon. Mr. Drea:** Mr. Hughes got into a great deal of grief with a great many ministers, publicly and privately, over the "could." I think I am the first one he didn't get into trouble with. That has probably precipitated his retirement—he is going to quit while he is ahead!

**Mr. Davidson:** I too would like to add our congratulations on behalf of the New Democratic Party and wish Mr. Hughes many more years of success in whatever field he chooses to go into, be it just plain retirement or whatever it is that he does, and if he is going to swing that golden hammer with the first punch, you could at least let him keep the hammer.

**Hon. Mr. Drea:** Yes, and it will be made by inmates.

**Mr. Daniels:** Basically, looking at the figures of correctional officers versus incarcerated inmates, it is about two inmates to every one officer. We have about 2,200 correctional officers, one in two of which are the working level correctional officers; another 400 supervisory officers; again who are on the front lines. That moves it up to about 2,600 to 2,700. You are looking at a ratio overall of two inmates to every one officer.

When you take that and spread it over a 24-hour period, seven days a week, it is not that type of ratio. The ratio then is really put in place by the facility itself, the way it is laid out, how posts are arranged, where an officer can maintain a secure view of the

inmate population or be involved in counselling or control.

[4:00]

Our ratios are set by the facilities, by the number of inmates; we negotiate this at the local level between the union and management. We sit down, we go over posts; everybody must be satisfied that security is maintained.

Just as recently as yesterday, the minister met with the main ministry negotiating team at the head office and we were able to add 300 additional front-line correctional officers. That's the figure. It moved from about 1,800 or 1,900 to 2,200 as a result of our meeting yesterday.

I think with that additional staff we'll have better coverage. We'll have less use of overtime and less use of part-time help.

I should add too at less cost. We converted our overtime and casual money into full-time civil servants, and that gives us a better way of scheduling our posts and scheduling our coverage, so we are maximizing our staff and they are fully trained. I think both the union and our minister have made a nice accord on this one. I think all parties are satisfied.

**Mr. Bradley:** First of all I'm wondering how you got that by the Treasurer (Mr. McKeough); but I understand it involved scheduling matters.

**Hon. Mr. Drea:** Skill, skill; the expertise that only a professional race track man can bring.

**Mr. Bradley:** I should attempt to speak to you privately on that particular skill.

How would this compare with other jurisdictions, let's say other provinces in Canada to be fair?

**Hon. Mr. Drea:** The problem is it depends on their institutions. Certain other provinces have virtually no institution other than the local jail. Certain other ones, such as Quebec, are responsible for even longer terms than we are. Instead of two years being the demarcation point for going into the federal system, it is three years in Quebec. In essence it really depends upon the institution.

It depends upon the age of the institution too, not just the physical dimensions. Oddly enough the older jail is much easier to staff than the newer ones, because remember it's just a solid corridor, six cells back-to-back; it's one on one in terms of correctional officers. At night it's very easy because nothing can happen; you know, they're locked in.

Then you get into the newer ones where

you have got angles, corridors, day rooms, central control modules. It's not a manpower saving design in any way, shape or form. You get into how many dormitories do you have? Do you have a TAP? How many do you have on TAP?

When you get into the institutions, it obviously takes more to staff Millbrook than it does a minimal security institution. It doesn't look that way, but then you have to look at what's involved in the personnel of, say the Brampton Adult Training Centre. A great number of them are teachers or trade instructors, whereas at Millbrook there aren't very many.

I suppose the comparison could be, at least at the reformatory level, with federal institutions. But then also remember they're in a different ball park. In a great many cases, they are dealing with the absolute worst in the human condition. There are no incentives that can be offered to the person doing four times life or four times murder with instructions very definitely from the bench, on the last three occasions, not to ever be returned to society. This produces a different type of manning program.

One of the most difficult and costly of the manpower requirements, quite frankly, is that we have far too many people in our jails as remand people who more properly should be in a psychiatric institution. We literally have to watch them 24 hours a day, seven days a week, even with their clothes off and nothing around that they can destroy themselves with or do something else with, when they should be in a psychiatric institution.

The difficulty is, in many places, we have the only secure holding area. Of the psychiatric institutions in the north for instance, not one of the three of them has a locked corridor or locked doors. They can't take them, we have to. This produces an enormous strain upon the staff; and a feeling of great frustration. We're not therapists, we're not tuned in for that.

People say, "Why don't you have a padded cell?" We shouldn't have a padded cell. The police station may, because it is a point of referral, but we're not a mental hospital. When we start getting into padded cells and sophisticated types of restraining devices that have to be used under medical or psychiatric control, then we have moved the first step into being the poor man's psychiatric institution, and we're just not going to do it. So it depends, really, on the institution.

We try to do this through the inspections and the negotiations with the union, taking into account the experience of the on-line

people in the union as to what makes the place secure; because remember once again we're relying on the sturdiness of the building and maintaining control so that we're not going to get into use of arms or other types of things along those lines. So it really just depends.

The other difficulty in a jail situation is you don't know what inmates are going to be there that night. If the place is empty you must still staff it, because unfortunately things don't happen on schedule. I know this is a far-fetched example, but you might have only one or two inmates in a place that holds 30 at 7 or 8 o'clock at night, and by 10 o'clock you may be overcrowded purely by what happens on the streets. We just have no control over that.

People say, "Why don't you economize? You're going to get people out of jail or they're going to be half full. Why can't you lay half of them off?" You can't. As long as there is one person in there, you've got to have a full staff. As long as the institution is open, you must have a full staff in anticipation of what probably will never happen; but if it did and you weren't there to accept it, the consequences would be very grave for the public.

**Mr. Bradley:** One never knows when a jail is going to be a hostel either. I should tell you I spent one night in a cell, not for committing any crime but I was travelling with a group of students where I was a chaperon. We were coming along Highway 17 between Sault Ste. Marie and Sudbury, with no place to stay on a Thanksgiving weekend. We pulled into a provincial police station and after some negotiations they agreed to let us use their cells, which happened to be empty that night.

**Hon. Mr. Drea:** Holding cells, yes.

**Mr. Bradley:** It really gets to the point you really don't know who you're going to get on that particular evening.

**Hon. Mr. Drea:** Well that's quite true, but you see the provincial police do in fact have control over their holding cells.

**Mr. Bradley:** That's right.

**Hon. Mr. Drea:** You see, here we are. Let's suppose something happened there. They weren't going to turn you out into the storm because they didn't have to do so. They could have merely taken the people who required cells, either to the Sault or to Sudbury.

It's always us. We are the ultimate in the back-up service, and that is one of the difficulties we have in trying to get to economy

scale. We just cannot achieve it. If a man gets sick, we can't say we've scheduled it so that every one day in nine somebody will be absent; we just haven't got that flexibility.

**Mr. Bradley:** In this vote we're dealing to a certain extent with prisoners' rights. I suppose this would come under this particular vote. I explored this a little bit with your staff when I had the briefing and it gave me some pretty reasonable answers.

What I was looking at was what effect prisoners' rights or a movement toward the basic rights for prisoners has on a staff. I drew the comparison with the police. For instance, the police today seem to be beleaguered because they feel we're assaulting their authority by allowing citizens certain rights. Now what do you see in the future in terms of the effect on morale of your staff?

**Hon. Mr. Drea:** I don't think there will be much impact, because, one of the things that's always been a very heavy responsibility for our staff is that we have had to confer the essential dignity of being human beings on some pretty repulsive people, people who are either repulsive by virtue of themselves or by the deed they have done. That doesn't happen anywhere else in the criminal justice system, perhaps with the exception of the defence bar.

They've had to do that. They've had to recognize that the person, no matter how repulsive, is a human being and therefore has to be treated as a human being and cannot be brutalized or what have you.

Over the years we've had to recognize the human condition. Long before homosexuality became a coffee table topic, we had to face up to it in view of the offender who was effeminate or the offender who was aggressively homosexual. We've had to consider the various forms of segregation.

In terms of the sexual offender, we've literally had to segregate them to protect them. We've had to treat that as a separate category. We've had to accept them because of lack of space in other institutions, and we still do it today. We have to do it with the retarded, the mentally ill, the borderline cases; the people with the mental age of eight or nine the courts say are perfectly capable of being on the street—I suppose they are in a legal way, but you know and I know our staff has to take them in and to look out for them.

I don't really think it will be that type of thing. They have always been under the gun to make sure the inmate did have that basic right as a human being. Grand jury



after grand jury, the boards of inspections, solicitors, the courts, all the way through have been very insistent that that basic right be recognized. They weren't terribly interested in the police car. They weren't terribly interested in the police station or the holding cell. They weren't terribly interested that they were in the cage in the courtroom. They still have the cage in city hall.

If we put somebody in a cage I'd be out on the street, but when a judge very calmly looks at people in the cage in front of him, somehow it becomes okay. Maybe that's why they're a little bit sensitive at the other end of the justice system about people having rights. We have always been compelled to regard inmates' rights, so I don't think it will be that much of a difficulty.

We've weathered some horrendous storms and the world didn't come to an end. We have a union agreement. The Ontario Labour Relations Board just said you have a collective bargaining unit which includes inmates at Guelph Correctional Institution and civilians. We have to obey that. We've got a trade union behind the walls.

From time to time someone writes about prisoners' rights in the *Globe and Mail* and he's talking about a union. I don't know why they keep publishing him, we've got a union. We've had to take that.

We've had to take the Ombudsman. People say that would be an erosion. They warned at the time this would be a terrible erosion of the correctional officers' rights and that morale would suffer. Nonsense.

Some people disagree with my very sound economic evaluation of the Ombudsman's office. I can document it. Talk to any one of our correctional officers. Talk to anybody on the line about the Ombudsman and he will tell you how important a tool the Ombudsman is and how necessary the Office of the Ombudsman is to him. We've gone through that and we don't feel emasculated or eroded. I really don't think it's there.

Really, we are at the disposal level, so our people have to be much more attuned to the fate of the individual than the police. They are the first to confront them, but after all it's up to the courts and it's up to us to decide what's carried out. The courts can pass them off to us. If they're doubtful as to whether they should be in society, let good old Correctional Services or the federal penitentiary service determine if, as and when. The buck stops with us. Since the buck stops with us, the attitude is for better or for worse it's what we do.

One of the interesting things that's coming up from the United States—I think from South

Carolina—is they're finally recognizing that the correctional officer is the basic motivational factor in getting an inmate to make the decision to try not to come back, to try to end the behaviour problem. Everybody else may get the credit, but the correctional officer is responsible about 90 per cent of the way.

[4:15]

They're starting to conduct some very frank and honest surveys among ex-inmates. They really get down to asking at what point did they make the move. Remember, this is always in retrospect so it's a little romanticized, but in nine out of 10 cases, it was the correctional officer or the guard or what have you. Because of his or her example or something they did out of the ordinary, et cetera, the inmate took that first step in what has ultimately been very successful rehabilitation.

In that way, we're not into the same category as the other branches of the criminal justice system.

**Mr. Bradley:** I have no special evidence but it is said that in certain federal institutions there are inmates who control the rest of the population on behalf of the correctional officers.

**Hon. Mr. Drea:** I'd say that.

**Mr. Bradley:** Does this happen provincially?

**Hon. Mr. Drea:** No.

**Mr. Bradley:** Is it because of the people?

**Hon. Mr. Drea:** It's because of the different system. We're dealing with much shorter sentences. What would be the use of becoming king of the institution when you're only going to be there for two months? When you're going to be there for 500 years according to the expectations of the courts it becomes of some significance.

The politicians have destroyed the federal system. As I said this morning, most of the blame lies with people of my party federally. They have turned Millhaven, Warkworth, New Westminster and other institutions into three-ring circuses. They always come in with their TV cameras trailing behind and they call these places deplorable. Somehow the impression is conveyed and perpetuated that the correctional officer is not treating these people well, et cetera.

This impression comes across to the people from the 11 o'clock news. Then the federal politicians jump up and down and say the inmates are running the places, et cetera; and when are we going to bring back capital punishment and so on and so forth?

Look at the correctional officer in the federal institution; how would you like to go to work every single day and take that? The fundamental failing by the federal cabinet is that nobody stands up for the correctional officer, at least I've never seen anybody stand up for the correctional officer federally. That's very badly needed.

I have suggested publicly that what is really needed to start Millhaven, Warkworth and some of the other ones down there—New Westminster, Dorchester and St. Vincent de Paul—back on the path, is the Prime Minister of Canada's support. There's no question that there's been some skulduggery there, but the skulduggery has been ferreted out and made public. It involved one per cent, not the 99 per cent who kept on going despite the adversity.

Mr. Trudeau very simply and plainly is going to have to come down into the guard rooms, into the control rooms right on the line and say, "Look, you are my employees and you are doing a tremendous job. I know the obstacles you face, but let's get at it." That doesn't happen and that's one of the difficulties in federal institutions. Once you lose morale, that's it.

Mr. Lawlor: Perhaps you're pushing this a little too far. As far as Guelph is concerned, I ran into the business of certain inmates running the show internally. I haven't been there for two or three years now, but Dr. Shulman and I used to go over there fairly often and on certain occasions we met some fellows who would make you hold your breath for a while. They were obviously the boys in charge.

Hon. Mr. Drea: Why don't you go down for another visit? One of the things we've done there is to break it down into much smaller units so that situation is impossible. You might have control over seven, but you don't have control over 200 anymore.

I think that was a very valid observation. That's the difficulty of a big institution. If you get a big institution you're going to get "wheels"—the trade term.

Mr. Lawlor: Yes, "wheels." One of the guys came up to us and said, "I'm the biggest wheel in this place".

Hon. Mr. Drea: You're going to get them either by force or by some other means. I don't know why we expect the local mafia don to assume new respectability when he goes inside.

When you were there Guelph was 700 to 750.

Mr. Lawlor: That's right.

Hon. Mr. Drea: The staff was around 412 or 424. Now there are only 490 inmates at Guelph, in much smaller control groups, and the staff is 396. It's much more difficult today to be a wheel at Guelph, Millbrook, Rideau, Brampton or what have you.

One of the difficulties is it is relatively easy to become a wheel in jail because of the tremendous number of remand prisoners.

Mr. Lawlor: What goes with that wheel stuff is certain privileges. Let's put it this way, certain soft jobs are somehow or other obtained by certain prisoners rather than others. They get their prestige out of the position they hold.

Hon. Mr. Drea: Now the only prestige they get is working for Mr. Drea. We will dig merrily every day as we march along the road singing our song. The kitchen job is no longer going to be the private prestige job in the institution. It will be relegated to a very lowly position, because the more responsible people who are now in the kitchen are going to be out on the road or in the force or what have you outside the walls.

As a matter of fact, the wheel who is a real conniver is going to suffer some rather substantial middle-class setbacks, because he is going to be at a rather low social ebb. He is not going to be out on the road waving hello to the passing motorists, he is going to be scrubbing the floors in the institution.

Mr. Bradley: Is that a smile of disbelief?

Hon. Mr. Drea: He knows what I am talking about. He knows the manner in which I handle it. As I said this morning, I am not a humane man.

Mr. Lawlor: I say that Frankie has spoken and the world will slightly alter.

Mr. Bradley: What would be the minister's response, since you've suggested who might be the worst offenders in this regard, to the public's concept of new institutions being country clubs?

Hon. Mr. Drea: The media—let me give you an example: There is a member of my own party who will not go into a certain new institution, despite the fact it's in his riding, because we have colour television sets there. We do not have colour television sets. Nowhere, in any institutions, is there a single colour TV set for inmate viewing in the entire province of Ontario. I think we have three or four that are used in training, but not for viewing. It's ridiculous to have a Channel 19 colour-coded program and do it in black and white.

How did that impression come about?

The sets we buy look like colour TV sets. They are the institutional ones that are used in schools and so forth with the folding gates. Everybody presumes since it is a new set it must be colour.

We have now had to make a rule that whenever visitors come, for heaven's sake, turn the thing on, even if it only shows black and white lines, because until then they will not know it is not a colour TV set.

They believe they are country clubs basically because of the propaganda that comes in from the United States where the police and the justice system are entirely different from ours. There is a spirit of hostility, animosity, frustration and what have you because their criminal justice system simply isn't coping. You can't help but have the public say our places are country clubs when "Police Story" is on every Friday, or whatever it is, and constant reference is made to criminals being coddled, et cetera.

Remember, 99 per cent of the public never sees the inside of the place. The only ones who really do, other than those who have a little bit of a vested interest, are the ones who might go on an inspection panel; that's all. It becomes a communications thing.

Oddly enough, by mention of the worst four-letter word in the English language, which is "work," somehow we have destroyed that impression. I haven't heard that we had country clubs for a long time. Once they get to be workplaces, people don't equate the workplace, no matter how modern, with any kind of country club living. They tend to equate country club type of living with idleness. The fact that everybody knew the inmates pretty generally were idle and there was a new facility lent itself to that concept.

By the same token, I must be frank with you, there will never be a place built again in my time like the London Detention Centre with a banyan tree or a palm tree, or whatever the silly thing was in there. It is a massive waste of space and money. There will never again be an indoor courtyard, as there is at the Toronto West; especially in a remand centre this is ludicrous. They are going to be out in 14 days. They don't look at flowers, especially when for six months of the year there aren't any flowers there.

I think these little touches really have influenced the public, but by and large I think the media has to take a much broader role. It was very interesting about the gentleman from the Toronto Star the other day. When he looked at the Niagara Detention

Centre, he was absolutely horrified. The Niagara Detention Centre probably comes up to about 80 per cent of what I want in the future in terms of facilities, very secure facilities. He thought the mere fact of being inside there was a tremendous deterrent against coming back because it was so sterile and what have you. That's one person's view. Yet, from the outside, people would say it's a just a big replacement for the old Welland jail, the old St. Catharines jail, and what have we really done? One of the complaints I am undoubtedly going to hear is that two weeks after the Don is torn down, and it will be torn down, the media, which has been trying to get the Don closed for God knows how many years, will start focusing on Toronto East and Toronto West and accusing us of coddling.

I think one of the answers is an intelligent public that has the ability to see what we are doing and to see our institutions, first hand or through the media. We can't fight the intrusion of an alien culture, because it is all around us, and we can't control it electronically. One of the disappointments—and this really bothers me—is that OECA is supposed to be in the educational TV business, et cetera, and the historical end of it, but we have the greatest difficulty getting OECA to focus on corrections. I don't know why. Maybe it is easier to buy from the States.

**Mr. Bradley:** The last point—and I am going to pass it over to Mr. Davidson, who I am sure has many questions—is something I thought you might want to cover because you discussed it earlier, as I did, in the opening remarks: some details on how you might step by step take over all responsibility for female inmates in the province, federal or provincial, and also the parole system, how you were going to bring about the changeover. I think Mr. Davidson mentioned that too.

**Hon. Mr. Drea:** Maybe I can discuss it in broad terms and then there might be some specific questions. First of all, we are at a negotiation stage with the federal government. Let's do the female one first. As part of Bill C-51 there is a provision which is now applicable for the exchange of inmates. It's meant for two things: if somebody obviously comes from Edmonton or some place and just happens to commit a crime in Montreal, presumably the provinces have the right to transfer them back there and arrange for that.

The second aspect of the exchange of inmates really isn't an exchange. It is a pur-



chase of services by the federal government from the provinces. One of the difficulties with the federal system, particularly for females, is having only one place for them. That has, over many years, meant that the female offender who received a penitentiary sentence received a double-header; she not only had the jail sentence but she was also sentenced to transportation, and transportation as a sentence was outlawed I guess well before the turn of the century.

The economics of the female count are not sufficient to build regional federal institutions all across the country, as they are with male offenders. Since most provinces have some place for female inmates, the obvious thing is for the federal government to purchase services from the province for the inmate from that province. All right, we intend to do that. At the last count, there are approximately 52 Ontario inmates in the penitentiary for women at Kingston. We have two choices in that. We could pick and choose. A great many of the females in the federal institutions now are there not because they require that type of security but because of mandatory sentences, particularly in the narcotics field, the seven-year one. We could pick and choose and not take the violent ones.

We are not going to do that. I think that would be very fundamentally immoral, because whoever we left there we are perpetuating the Kingston Penitentiary for females and everybody wants it down and it is not going to come down until there is a place for the females to be housed. In addition, we may very well have to take—provided they are agreeable—female inmates from the Maritimes and so forth where there simply isn't any type of local resource. That is, of course, if they are agreeable and we have the space.

[4:30]

That is just our policy. One of the things it may require is some structural changes to Vanier, because there really isn't that secure a facility for some people who may require it. I was talking with Miss Haslam from the Elizabeth Fry Society last night. Incidentally, I am determined to get this done very rapidly, because Miss Haslam completes a very distinguished career with the Elizabeth Fry Society next May. I have promised Miss Haslam that, damn it, we will have transportation for females ended in Canada—because that has been her lifetime goal and what got her into it in the first place—by that time. We may have to make some

changes to make Vanier a little more secure in certain areas.

It may very well be that when we receive some of these female inmates, a good psychiatric assessment may determine that they shouldn't be in the correctional system at all. They might very well belong in the health system, in terms of psychiatric care, but that is what we are going to do in that regard. There is one difficulty, the exchange is predicated upon the willingness of the female inmates to come. There may be some Ontario female inmates who do not want to come to Vanier, because there is very little for them to do at the Kingston Penitentiary for Women and they know darn well when they come to Vanier that either work or training or something will have to be done. Of course, that decision will be up to the federal government.

As to the exchange of male prisoners, at the moment I guess we have around 20 or 30 in our system from Dorchester, St. Vincent de Paul, et cetera. They are usually people that the federal government wants kept in a special kind of custody because they are going to be Crown witnesses or something like that. Other than that we really don't have the bed space at this time. In the future I would hope we would have some additional bed space because of the lower count coming in and so forth. That takes care of that.

In terms of the parole, as you know, in this province we are limited, as are other provinces, to only the indeterminate portion of the sentence. We have no jurisdiction over the definite part. Bill C-51 ends indeterminate sentencing; it will be all definite. Therefore, we have two choices. One is to abolish our parole board, and let the National Parole Board exercise total control over our institutions and the parole of the inmates from them.

That won't work, because the National Parole Board is not tuned in to the short-sentence inmate. It is tuned in, and properly so, to the long-sentence inmate, because that is the board's work. For instance, they do not now visit physically an Ontario inmate who has applied for parole under his determinate sentence. They send it by mail, whereas our parole board makes a visit. I can understand the economics of it, but it means that a less articulate inmate doesn't have much of a chance when it is done by completing forms.

I will negotiate that we will take over the parole for the inmates of our institutions. That is going to put an enormous burden on our probation and parole people. As a matter of fact, I think three per cent of our work now in probation and parole is parole, and some

of that really isn't much. By the time we get around to being able to parole them, it's maybe for a day or two, a week or two, not much. We are going to negotiate that. I have the authorization of cabinet and the government to negotiate that.

We are prepared, and Management Board has accepted the realities of life, that it is going to mean a substantial complement, an additional new complement for the probation and parole division. There is no sense in going into parole if we can't do it. If we don't, the difficulty is going to be that the short-sentence reformatory—not the jail but the correctional centre person is not going to get a shot at parole, which means doing the full sentence, which is going to clog up the reformatory or the correctional centre.

This in turn will clog up the jail, because they can't take from the jail what they haven't got room for. This will clog up the area for remand prisoners, which means the courts are literally going to have to go to bail on demand. This is going to put increased burdens on the courts and on the police, and there we go again. So it is somewhat essential that we start freeing up the reformatory for those who need it, and that we get much more actively into parole.

The federal government, while it says we may apply, obviously has something in mind or it wouldn't have put it in the Act. All it had to do was say, "No more indeterminate sentences," and our parole board and British Columbia's would have been out of business. It didn't; it said "may apply." Quebec is going to apply. It has been setting up a parole board now for some months. It never had one before, but it is going to apply under Bill C-51.

So obviously the federal government wants to disentangle itself from the provincial jail system almost entirely. If they didn't I don't understand why they would put that provision in the Act. But I don't trust them any more than they trust me. They must have something in the back of their minds when they deliberately drafted it into legislation and are making arrangements for it.

So that is where we stand, it's an authority to negotiate on behalf of the province for this. I would hope to have the support of your parties. We will keep you informed as to the state of the negotiations, but it is really up to the federal Solicitor General; he either says "yes" or "no." I have some techniques which I will discuss with you privately so that this federal Solicitor General may find it extremely difficult to say "no." But that is where we are.

I just want to say one thing. Let's once

again be honest: We're in the risk business. It's all very nice and easy to keep the men to the limit of their sentence, and then say when they come out that the court didn't give them long enough. With regard to parole, I am prepared to accept the risk that is warranted. There will be failures, of course, just as there are failures now. I would hope that at that time I will have the support of the Legislature and that everyone will know just exactly what we are doing. This isn't pie-in-the-sky or instant reform.

**Mr. Lawlor:** On the cost factor, is there anything the federal government can do? Without any kind of compensation, are you willing to absorb that cost?

**Hon. Mr. Drea:** Yes. They are not really doing that much in the field anyway, they are just sending out mail. They are still going to have to be in place, because they are going to have to deal with their own inmates. They are going to have to deal with many of the provinces which won't want to go into this. I doubt that the four maritime provinces would have the resources to go into it. I know Manitoba was interested, but there is a new government; I don't know what their approach is going to be. BC obviously will be; Alberta probably; Quebec wants to come into it now. But the National Parole Board is still going to be there. They won't lose any complement, because this is such a minor part of their work.

It just expands our horizons; it is a cost item, no question about it. But it is something that we must do, because the alternative is a cost item of building more institutions, and for what?

**Mr. Williams:** I tried to get back sooner, but it sounds as though you have covered areas that I would have preferred to ask questions about, dealing with the status of the negotiations with the federal authorities.

**Hon. Mr. Drea:** We are going to commence right after the first of the year.

**Mr. Williams:** So if you have gone all through that, I won't bring the question up again.

**Hon. Mr. Drea:** As I pointed out, I have cabinet authority to negotiate this; I have cabinet authority to negotiate the exchange, which really isn't an exchange, it is the purchase of service by the federal government for female inmates so they will be able to close down the Kingston Penitentiary for women.

As I said very briefly, I have the opportunity to pick and choose whom we will take out of Kingston. But I am not going to do that, I regard that as immoral; we are taking everybody who is an Ontario inmate or

who wants to come. That may require certain changes to the security at Vanier, maybe some changes in the particular type of female training at Vanier; we're into a whole different proposition. But basically that is where we go, and Bill C-51 permits this. They say we "may apply" for the provision of parole. We are going to apply, Quebec is going to apply and we presume BC is going to apply.

If we don't, the alternative is that we lose control of our institutions, because the National Parole Board simply isn't tuned into dealing with short-sentence people. It's tuned into dealing with longer-sentence people and therefore, with the end of automatic remission, probably around April 1, 1978, even that one-quarter off plus the additional time for good behaviour, which is the one-third, that is all gone now. I have got to give the prisoners "earned" remissions, and how can I give them earned remissions if they can't get parole?

**Mr. Williams:** In the provisions of C-51 dealing with parole matters, have the mechanics all been worked out to the mutual satisfaction of the two jurisdictions? However, that's still very much a part of the problem we are talking about.

**Hon. Mr. Drea:** All it says in the bill is that provinces may apply. It doesn't say we have to and the federal government doesn't say whether it has to grant or not. On the exchange of females, though, there is no question the federal government wants to get into that area of purchasing services.

**Mr. Williams:** Looking at the report of the ministry, particularly the performance of the Ontario Board of Parole to the end of March 31, 1977, it was enlightening to me to know just how active the board was.

**Hon. Mr. Drea:** Mr. Williams, before you go any further, the stats are meaningless, the percentages of success and failure, and so forth, because we only have jurisdiction over the indeterminate portion. Sometimes parole is a matter of two days. The ratios really aren't indicative of very much because of the very short duration of this parole. In the federal system they're on parole much longer and one can get a much better reading on the stats.

**Mr. Williams:** That was a consideration I was going to take up with you but I will take that under advisement in view of what you have said. The only other question I had was with regard to the composition of the parole board itself. To the best of my knowledge, at the provincial level it has performed well. I'm just wondering what the varying degrees of experience on the board have been and

what term members serve on the board. To the best of my knowledge, their performance has been good. I'm just wondering what the balance was among board members as far as coming from different walks of life or different backgrounds of experience or professional qualifications or whatever and also just what the term is of the various board members.

**Mr. Thompson:** It's not a term appointment.

**Mr. Williams:** It's a permanent appointment?

**Mr. Thompson:** That's right. It would be as well to think of the assumption of additional responsibilities as we look at the number of people on the board. We estimate we would have to add approximately 20 people to the board structure—not board members per se, among all of those 20, but some clerical staff—in order to break the board down into probably six sub-units to go to different parts of the province. They're going to have to act in very rapid fashion in order to be able to process inmates sufficiently quickly to get them out on short sentences. That's one of the main objectives, of course, in assuming parole responsibility.

In terms of the experience of the present people on the board, if I can just look at the names on page three of that annual report, Mr. Coughlan is really the pioneer of the probation service in the province. He came into that with the background of having been in the church and also trained as a social worker subsequent to that. He has many years of experience in the service delivery system of the probation services. At that time it was within the Ministry of the Attorney General.

Mr. Morrison, one of the two vice-chairmen of the board, has a doctorate in education and was superintendent of one of our training schools for a number of years within the juvenile division. Mr. Hill, the other vice-chairman, was for some years the assistant director of the probation and parole service itself. He has worked in the after-care service for many years when people were described as parole and rehabilitation officers before the probation service was merged.

[4:45]

Ms. Markle worked—and some of you will remember her—for a number of years with the Hon. Allan Grossman when he was our minister, and so she has a very long career of contact with this ministry as well as with others. Mr. Hooper has been a superintendent in our system, before he went on the board, for many years and probably has administered more correctional institutions than anyone else I know of in the ministry. Mr. Nokes has a



career both in the police service and in the probation and parole service.

**Hon. Mr. Drea:** Mr. Nokes, incidentally, is the Mr. Nokes.

**Mr. Thompson:** Mrs. Nicolson has a background in the business world in the Hamilton area and is, I guess, perhaps the most recent member on the board.

So it's a wide variety of experience, but I suppose on balance, the majority of those people have had something to do with the criminal justice system at some time or other in their careers.

**Mr. Williams:** It's my understanding that on a day-to-day operating basis the members of the board are usually dealing with parole considerations on an individual basis. Are they moving about the province pretty well on an individual basis?

**Mr. Thompson:** They are broken down. The group of seven people is broken down into two teams in order that they can get all of their work done. They see over 1,000 individuals a year and they go to a great many places in the province, from Monteith to Thunder Bay to Rideau correctional centre and so on, all around the province to interview people. They do preparatory work with the files on cases—where they've been provided with community assessments before they even go out into the field—and by the time they get to the institution, they've done a good deal of data collecting and information gathering on the individual, from police sources, from the community and so on. Then they sit down and talk to the individual directly. Then when they've made their decision, they give the individual their reasons for their denial—if it's a denial. They don't give reasons for positive decisions.

**Mr. Williams:** Under what circumstances do they meet as a total board to deal with cases? Are there certain criteria that apply where it might be deemed of sufficient importance for the board as a whole to deal with a parole matter or series of parole matters?

**Mr. Thompson:** I guess where there's a case requiring some review of a situation, where someone has written to perhaps complain about a decision and asked for a review of his case, they might call the whole board together. But the board is capable of making a decision if three members are there. That's the quorum that's required, as the board's structure is operating at the moment.

**Mr. Williams:** So the individualized attention is primarily in the preparatory work for a hearing at which there will be not less than three members sitting.

**Mr. Thompson:** That's right. Going back to your question about term appointments, we have considered—and no final decision has been taken on this yet—the federal government's parole structure which is a contractual structure. As we expand our board, I would guess that we will consider doing that in order that we have an opportunity particularly to have people from each of the areas of the province serve on the board and serve on a term appointment basis. For example, when the three-person board goes to Thunder Bay, one of the people on the board, if not more than one, should be from that area and very much tuned into that community.

**Mr. Williams:** What are the term provisions in the federal setting?

**Mr. Thompson:** They run five-year appointments.

**Mr. Williams:** I was going to say, it would have to be reasonably lengthy to provide a degree of continuity and to assure it of experienced people. Are they open to reappointment?

**Mr. Thompson:** Oh, yes. They pay substantially more, I suppose, for the inconvenience of the term appointment.

**Mr. Chairman:** Shall vote 1502 carry? Are there further questions? Carried?

Vote 1503. Mr. Davidson?

**Hon. Mr. Drea:** You might as well approve it, because there's nothing I can tell you about it.

**Mr. Davidson:** Well, wait. I thought we were taking these one at a time, or are we talking about vote 1502 period?

**Mr. Chairman:** No. I said, I believe, at the beginning of vote 1502 that questions would be entertained on the whole area.

**Mr. Davidson:** Then let me carry on with a couple of questions on vote 1502.

**Mr. Chairman:** Please do. We have 20 minutes left in the estimates.

**Mr. Davidson:** There's one question I would like to ask and perhaps I can get an explanation for it. It would appear, Mr. Minister, that the entire thrust since you have taken over is to get away, more or less, from institutional care, in a sense.

**Hon. Mr. Drea:** Where possible.

**Mr. Davidson:** Where possible. And yet, I note the ministry has expanded its budget in that area by some \$22½ million.

**Hon. Mr. Drea:** First of all, in terms of even existing institutional care—about 75 cents on the dollar is salary. There's one reason. We've got to keep pace. I don't think

the correctional officers' lack of proper salary should subsidize the system.

**Mr. Davidson:** No, I wouldn't suggest that it should.

**Hon. Mr. Drea:** No, but to attract, keep and maintain good staff, you have to pay good dollars. That's one reason for it. Secondly, there are more professional people being brought in, either on a consulting basis or on a full-time basis; and those costs, once again, are in line. I suppose it's fair to say, I guess, we are de-institutionalizing; but what are left there are the very difficult ones. As I said before, in terms of the jail, no matter how relatively empty you get it, you've got to have the staff there and you've got to have the equipment in terms of the structure, et cetera, to keep them. Even keeping existing institutions and not going onwards, you run into the inevitabilities of the cost of living; and even renovations cost more, et cetera.

It says here "openings." For instance, the opening of the four new detention centres—that's a cost item because you need a bigger staff. That staff just wasn't there before. For Toronto East-Toronto West, everybody was housed in the Don. It was nice, tight and convenient. Now you've got three staffs. The Kitchener jail annex—and we're not talking about it as the Waterloo jail now—was an additional facility for the overflow out of Kitchener.

And then "closures." You can see that the closing of the Brampton, Hamilton, London, St. Thomas, Woodstock and Camps Hendrie and Oliver save some money. It just doesn't really account for it, or it doesn't really begin to pay the cost of the new place. There's just no way out of it. Let's just say that today we split into halves—with cell-for-cell, facility-for-facility. That doesn't mean the institution stands still. You may require more staff or less staff or a different kind of staff, and the professional ends which we have to deal with.

There's also a failure in other systems. I think we would have much less pressure upon us if, in the mental health field, people were so confined rather than being confined only when necessary—the outpatient thing. I believe that's more of a responsibility on us, because when they fail, we get it. Some of the retarded who have been de-institutionalized simply have not been able to cope with the outside world. The institution doesn't get them back. We get them. That's a difficult type of thing.

We are into the treatment areas both at Guelph in the assessment treatment unit there—OCI. We are into much more assessment, trying to find out if there is a particu-

lar program that will meet the psychological and the behavioural problems of the person. That's money. It's money; yet people say OCI isn't an institution. They pass through, it's not a treatment place, they pass through in three or four weeks. But it's an endless procession—three-four weeks. And we are going to have more into OCI and we are going to have more into the ATC.

For instance, we are not even in control of their destinies. The OSSTF negotiates with the provincial schools authority and our teachers. We have to pay the going rate out in the community. In fact, we have some situations where the school principal or the ATC, because the OSSTF negotiates for them, gets paid more than the superintendent and we have no control over that. That's with the Ministry of Education, not with us.

**Mr. Davidson:** The reason I asked is that I was making a comparison between the institutional care and the community service programs. The increase there is a little less than \$2 million and it appeared to me that if your trust is to get more community service oriented programs into effect—

**Hon. Mr. Drea:** It will never show up in dollars because, remember, we are talking about the institution. We are talking in terms of the \$40 to \$50 range a day. In the community thing we are talking in terms of \$1 to \$2 a day or \$1 a week. For a pilot project that will probably handle about 200 people this year, the total cost will be somewhere in the vicinity of \$25,000. For \$25,000 I could add one correctional officer in an institution. It is just that the institution is the big buck end and that's what we want to get out of—that total commitment to the big buck end, because on a small dollar end, where possible, everything is much more beneficial to the community. There's no question. There's always going to be confinement because the function is to protect society. But if the dollars don't show up, what really happens out in the community?

**Mr. Davidson:** You mentioned during your earlier comments once again about Churchill House at Grandview. I think it is only fair to raise it with you because you are probably going to get numerous letters on it.

**Hon. Mr. Drea:** I haven't got one yet.

**Mr. Davidson:** No, I am talking about something different now. It appears that the construction trades in the area are highly upset over the fact that you are going to use inmate labour to build the walls.

**Hon. Mr. Drea:** First of all, we use construction labour, union labour presumably—it had better have been union labour—to do

the footings. The architect's wall would have been a poured job, not much labour in it at all.

**Mr. Davidson:** Mr. Strickland, who is one of their representatives, called me and asked that I convey to you that message. He said he personally would be getting in touch with you.

**Hon. Mr. Drea:** Okay. Where was Mr. Strickland on the whole inside of these buildings?

**Mr. Davidson:** Well, that's the question I raised with him.

**Hon. Mr. Drea:** But he didn't say anything then?

**Mr. Davidson:** And his answer was that he wasn't aware it was taking place.

**Hon. Mr. Drea:** Look, everybody can't have it both ways. The labour movement has been very supportive with trade training. This wall is the product of trade training, because these aren't just draftees out of the system. These people are out of the masonry courses at Guelph—the Maplehurst correctional centre, and Hearst correctional centre. I don't think the construction unions want us all of the time to be building things on our own premises and then knocking them down because that's rather futile and this is a good example of what we can do and will be very beneficial. I will be prepared to share this with Mr. Strickland. I have never seen so much difficulty about one institution giving a \$1 million clear cash gift to the taxpayers. I expected to be sainted or knighted for that one. Instead, everybody is extremely dubious. I should have said it is going to cost you an extra million and we would have got appreciation.

**Mr. Davidson:** The other day when we were talking about it, you indicated that perhaps there wasn't as much disruption in the community as I was indicating. When you get editorials that read like that one, let me assure you there is quite a bit of disruption. It says, "This may have been the time to yell and shout"—and it goes on to say that Cambridge is "going to have a maximum security prison complete with a 20-foot wall right in the centre of the city. That shouldn't surprise us. After all, it's a decision made by the province."

[5:00]

**Hon. Mr. Drea:** I don't want to get into further arguments with anybody around Cambridge. I have suddenly become the chief bargainer for the progress of Cambridge with the province and the region of Waterloo. I don't mind the editorials because I know the

spirit with which they are done. It is their fond hope that I will be able to twist the arm of the region of Waterloo to do certain things that the region of Waterloo has been reluctant to do so far, and to twist the arm of Government Services so that Government Services does some things that it has been reluctant to do so far. I am getting to be the greatest land use expert in the history of Cambridge.

**Mr. Davidson:** You must have done a good job of convincing the mayor, because he went back and said that it would be an asset to the community.

**Hon. Mr. Drea:** I can tell you the people are fed well in Cambridge.

**Mr. Williams:** Could I just add a postscript for a moment or two, Mr. Chairman, if I might, to some comments and inquiries I was making in regard to the parole board. I was reflecting on Mr. Drea's comments this morning on the article that was referred to in this morning's paper about the parole board. Most certainly the article does come down heavy on parole boards and suggests they do all of the work of the courts of law in that particular province, and I guess speaking in general terms not only to British Columbia but to the court system and the parole system as a whole across the country.

Certainly you get very fixed views on the subject, and it would appear the article, as I say, is somewhat condemning of parole boards. I really feel that the credibility of the parole system is so heavily dependent on the calibre of the people who pass through those parole boards. It's one of those types of systems where the quality and credibility of the service is so heavily dependent on the personalities involved in that system. That's why I was speaking to the deputy here and asking him about the personalities that go to make up our board, which really has proven to be an exceptionally good one, and just what the individual and varied backgrounds of the people were who made our system as good as it is.

I feel strongly that the credit for the system being credible to the people of Ontario rests heavily on the shoulders of those people. If they are going to go off on tangents to the extent as suggested in the article this morning, it would make the public at large apprehensive as to whether the whole concept of rehabilitation is being dealt with in a proper perspective and whether we are trying to make it solely a rehabilitative program, although I think essentially this has to be the main thrust.

I was just sort of tying in that article with our own system and our own proven per-



formance in the field and reflecting on the fact that these people who constitute the membership of the board have heavy responsibilities on their shoulders and they seem to be carrying out their responsibilities extremely well. They recognize the fine balances that do exist in the system and the fact that they have a very important complementary role to play in the administration of justice in dealing with those in our society who have been convicted of crimes.

**Hon. Mr. Drea:** We have another aspect too, Mr. Williams. It is not just the parole board making the decision, because the person just isn't turned loose. There's a vast probation apparatus which is backed up by a much vaster volunteer movement. These people are under supervision. It takes a very skilled staff out there, because one of their fundamental determinations is whether the person is successfully going on with parole or do they take it back to the courts and say he's a violator.

I think one of the things that the province of Ontario should be very proud of is that on any given day there are 25,000 offenders, criminals, whatever you want to call them, on the streets under probation supervision. Without that, this province does not have enough money going to build institutions to house those people. There's very little difference in the risk assumed by the parole board in granting parole than there is in the bench saying, "We will suspend your sentence," because when they suspend your sentence you are going on probation. The bench has made that determination right there. It has assumed the risk, and the parole board has to operate in that manner.

The reason the bench can make that decision is the judges are aware of the quality of our probation service, the people who are actually doing the supervising. If the court loses that's it, it's case over. You might get him back if he fails, but it's over. It's the same with the parole board, so that you need quality right down to the person right on the street.

**Mr. Williams:** I recognize that, but as the deputy pointed out, certainly parole board members, in doing the preparatory work for dealing with the hearings, rely heavily on these resource staff people in giving a full background on particular people who are applying for a parole. It follows right down through the system, but certainly the buck stops with the parole board members who have to make the final decision based on the input they have had from the staff.

**Hon. Mr. Drea:** Yes, but that's a kind of

unfair judgement. On that particular day and for the next six weeks the person who is going out may be an excellent candidate to be an asset to the community. Then maybe as simple a thing as taking the first drink, or as complex a thing as some kind of a personal relationship with another person, alters the situation right then and there. It's all very well for the Leslie Bewleys of this world to view the human condition as permanent and inflexible, but somehow, when you get to the age of maturity, from that point on you're either good or you're bad. If you're good, you're not going to be bothering anybody. If you're bad, you'll be a persistent problem.

I wouldn't mind operating in a world like that, but that is not this world. In fact, if we remove alcohol from our society we could really be institutionalized—boy, could we ever—but it is not in the cards. If you take away narcotics, or the ability to get narcotics, or the desire to get narcotics, that would take care of the rest of it. It is just not in the cards. I wish sometimes when people are analysing success or failure they take a look at the rest of the world.

I have a very difficult time, and so does my staff, of convincing inmates that the straight way is the best way when the public steals a picnic bench from in front of my office. The inmates don't steal it, the public steals it. It's now chained out in Scarborough. I have a very difficult time when I have to pay overtime to correctional officers so that people in the Don can watch the hockey game.

Why does the hockey game go beyond 10:30? Because drunken buffoons often litter the ice and it's very difficult to go and talk to people and say the straight way is the best way when they have just watched a guy in a \$400 suit litter the ice and be discreetly escorted out or patted on the head and told not to do it again, and this guy is behind bars. He didn't even do it in the full limelight of the public.

Society, I think sometimes, and the Bewleys of society, have to take a look at themselves and the fact that there is a very vast human condition. If they don't want to accept that, and the public wants a straight custodial hard-time system, then they have every opportunity in the world to get one, but they don't want it. They've made that pretty abundantly clear over the years. They don't want it but they don't want the system abused. The difficulty is, sure, it's criminal justice but it's also human behaviour, and people, for a number of reasons, at the oddest times do the oddest things and may never

do them again. They might never have done them if the moon wasn't out or they weren't half an hour late or something. There's a risk factor there.

**Mr. Bradley:** Mr. Chairman, under this vote, could we discuss visiting privileges?

**Mr. Chairman:** Sure.

**Mr. Bradley:** The reason I ask is, it just dawned on me while we were going through this that I had a question from a constituent some time ago. She was a lady, a widow, who had a son in an institution, and it was a visiting problem. I'll give you a little bit of a rundown and then maybe you can tell me what your policy is. Remember I'm only quoting the person, not by name, but I'm quoting the person. The son, without notification to the family, was moved from Thorold to Brampton. His mother was not notified until he got to Brampton that he was moved. I don't know whether that happens normally or not.

**Hon. Mr. Drea:** There may have been a reason, you know.

**Mr. Bradley:** There could be, I'll explore that with you in a second. Then he was moved to Simcoe. What she pointed out was that there seemed to be different visiting privileges at different institutions and they were rather restrictive. There are probably good reasons for it. Maybe we could just discuss this generally. Do you inform families when prisoners are moved? Secondly, why are there different visiting privileges?

**Hon. Mr. Drea:** First of all, there are two books. The blue book is for those who have been sentenced to correctional centres. The green book is for jails, detention centres, et cetera. If you're on remand, you may receive two visits a week. Those visiting hours are usually scheduled and posted right in the jails, and for obvious scheduling reasons you try to get them on days so that work and other things can be done, because people are coming in off the street and there's a lot of movement inside. If you're sentenced you may receive one visit each week. The reason for that, of course, is that the sentenced person isn't going to be there for very long. You get the one visit a week in the correctional centre too, but by authority of the superintendent there's a special visit.

**Mr. Bradley:** Who gets that book, the inmate or the family?

**Hon. Mr. Drea:** The inmate. It's certainly available if the family wants to pick it up. The difficulty is that you don't get to be family of the inmate until the person is charged. That's the difficulty. Your religious

minister and solicitor are not involved in this at all. They can come in whenever they want to. From time to time in institutions there are problems. For instance, no doubt there are people who complained that on one or two days a couple of weeks ago at the Barrie jail there were no visits. Sorry, we couldn't; we were cleaning it up. Sometimes there are other difficulties.

With the movement of people, the transfer of a prisoner is a rather delicate matter. How far do you want to warn everybody in advance where they're going? It's okay that they're going to a reformatory. That's one matter. I don't know whether this person is on remand. I suspect that he was.

**Mr. Bradley:** I suspect so too.

**Hon. Mr. Drea:** It's also a requirement for his own protection. Maybe there is somebody else involved in the case who does not want him to testify. The policy is outlined and there is a great deal of flexibility in it. Any time people have difficulty or have problems I think the proper route is either through the Ombudsman, or, if that is too cumbersome for the person, through the member.

**Mr. Bradley:** I think that makes sense, the point you brought out about the transportation and, obviously, there could be somebody waiting in ambush somewhere if they knew the person was being transferred, either to help the person escape or to look after the person because that person might potentially be a witness later on, so it certainly makes sense to me.

**Hon. Mr. Drea:** Also, sometimes the community is very vengeful.

**Mr. Bradley:** Yes.

**Hon. Mr. Drea:** We haven't exactly confined to the public where we are holding the four suspects in the Yonge Street case, because the public have views.

**Mr. Chairman:** The time has expired for these estimates. If someone has any very pressing question I'll entertain that.

[5:15]

**Hon. Mr. Drea:** I think the next one is vacated anyway, because it's not our responsibility.

**Mr. Chairman:** Do you have another question on 1502, Mr. Williams?

**Mr. Williams:** One question on 1503.

**Mr. Chairman:** Can we first of all deal with 1502?

Vote 1502 agreed to.

On vote 1503; rehabilitation of juveniles program:

**Mr. Williams:** With the executive director being here, it might be useful for the members to know whether there has been any difficulty experienced in the transitional move from the one ministry to the other—whether it has simply been a question of closing one door and opening another—

**Hon. Mr. Drea:** No, it has been fairly complicated.

**Mr. Williams:** —or if in dealing with the other ministry, there has been any difficulties in—

**Hon. Mr. Drea:** There have been some difficulties on our side in terms of folks getting used to transfer files—that type of thing. But in terms of the human thing, if there are any difficulties they are all Mr. Norton's. They're his responsibilities. He took over lock, stock and barrel. They're no longer with us.

**Mr. Williams:** Just bear with me for a minute. I just wondered if Dr. Hutchison could comment briefly as to the transitional period—whether in any way it has been detrimental in any aspect of the ongoing program. Has there been any interruption of service or programs that has resulted from the transfer? It would be of interest to know, even though it's really not in your area—reporting on what's happened while it was still under the tenure of your ministry. I'd just like to know that the turnover has been effected without any difficulty.

**Dr. Hutchison:** I'm pleased to report that the transfer was skilfully executed, I would say. There was a series of committees set up to identify the program elements that would be transferred and how the transition could be bridged. There were regular meetings between the senior staff of our ministry and the new children's services division. I met with Judge Thomson and his senior staff on a weekly basis, and I'm very pleased to say that the actual transfer was managed very well and no child is in any way dislocated or had the program interrupted as a result of the transfer.

**Mr. Williams:** How much preparatory notice did you have to prepare for the transfer of people moving out of this ministry to Mr. Norton's? What period of time did the transition cover?

**Dr. Hutchison:** I'd have to ask my deputy here. His memory may be better than mine, re the time lapse between when cabinet approved the transfer, when the decision was made to integrate all the children's services in Ontario into one ministry and July 1, which was the official turnover time. There

have been a number of things going on. I might say first of all, that I was the ministry's representative on the Council for Disturbed Children and Youth and that was an inter-ministerial council. It's still in existence, although it hasn't been as active as it was at that time.

We had a number of issues concerning the co-ordination of children's services in Ontario. I had been working quite closely with some of the senior people who are now in the children's services division. I might mention Mr. Gord McLellan, who's the executive director of that branch of the new service which heads up the Children's Aid Society and so on.

So it was not unfamiliar territory. All of these issues of co-ordination and so on had been gone over very thoroughly from the problem standpoint. We'd made a number of presentations to the Hon. Margaret Birch. Of course, she's chairman of that committee and Provincial Secretary for Social Development. So we knew generally where we were going and what the problems would be, so it was a matter, once the word "go" had been given, of engaging in the actual planning of the transfer.

I'm advised that we found out in March that cabinet had decided to integrate the services and put them under ComSoc, so we had between March and July.

In the meantime, you might recall, we were working on the section 8 children and were placing them in the community. That is, we were getting them out of the institutions because of the changes in the Training Schools Act and the repeal of that section. So we had been, once again, working with the agencies in the community and with ComSoc to get these kids out and under the general direction of the Hon. Margaret Birch. We had a deadline on that of September. I wasn't around to see the end of that but I gather that it all took place.

**Mr. Williams:** I'm pleased to hear that no difficulties were encountered in that turnover.

Vote 1503 agreed to.

**Mr. Bradley:** Mr. Chairman, before we depart, I would like to compliment the minister for two things. First of all, for giving us what I consider to be straightforward answers and second, for showing an obvious and very detailed involvement in his command of his ministry; and to Mr. Thompson and all members of his staff a real thank you for their co-operation and for the answers they provided. I'm sure we can work with them in the future in bringing us such information to nail the minister with.



**Mr. Davidson:** I, too, would like to give my thanks to the minister and the staff for the manner in which they conducted these estimates. I think without the co-operation we did receive we probably would not have gotten through them as quickly as we did.

I think the information we were looking for, as Mr. Bradley points out, was very straightforward and the facts were very well explained. I think if anyone cares to read Hansard they will at least get some very definite, positive ideas of the direction that Correctional Services is taking at this moment and I think that's going to be good for the entire province.

**Hon. Mr. Drea:** I'd like to compliment the staff.

Presumably we will be on in the spring again, and quite frankly I would prefer that we would be in committee rather than the House. I think the House lends itself to certain estimates, but I think in terms of the wide scope of the activities that this ministry is in, committee serves a much better function. So perhaps you would mention that to your leaders. I don't know what the agreements between the House leaders will be regarding scheduling. That's beyond all of our control, but rather than let it go by default into the House, I would prefer that we have it here.

I also intend to keep you as informed as possible. I know you're not here all the time when the House isn't here. I'll keep you as informed as possible on movements and directions and so forth that we are taking, because I think the role of the critic is extremely valuable. It isn't just criticism for

the sake of partisanship. There should be checks and balances. You can have all the clear and forthright statements in the world from the ministry but they have to be evaluated by the public, and part of the public is the Legislature. The Legislature and your two parties have chosen you to be that instrument, so I look forward to that type of dialogue and to keeping you informed.

**Mr. Chairman:** If the chairman may be allowed one comment, I've certainly found these estimates extremely interesting and I think part of it was not only due to the fact that the minister was prepared but also that the two critics were extremely well prepared as well.

**Hon. Mr. Drea:** I think that should be underlined in Hansard. Both critics took the time to be briefed exactly the same way and with the same people as a minister has been traditionally briefed. I think—although it has raised some eyebrows—that has produced a much more effective type of estimates debate than in the past where a great many questions were asked in a groping and a fumbling manner. This time the questions were very positive and were based upon an understanding and so forth. I think perhaps that augurs well for the legislative system. We are now more confined in terms of hours and space available for estimates. I don't think we can go on much longer as a Legislature in the traditional kind of estimates where the private member comes in and says anything he wants. I think we've passed that now.

The committee adjourned at 5:26 p.m.

## CONTENTS

---

	Wednesday, December 14, 1977
Ministry Administration Program .....	J-113
Analysis, Research and Planning .....	J-113
Rehabilitation of Adult Offenders Program .....	J-116
General Administration .....	J-116
Rehabilitation of Juveniles Program .....	J-130
Adjournment .....	J-132

## SPEAKERS IN THIS ISSUE

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Bradley, J. (St. Catharines L)  
Davidson, M. (Cambridge NDP)  
Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
Lawlor, P. D. (Lakeshore NDP)  
Williams, J. (Oriole PC)

**Ministry of Correctional Services officials taking part:**

Daniels, A. F., Director, Personnel  
Hughes, H., Assistant Deputy Minister, Operations  
Humphries, Dr. P., Senior Medical Consultant  
Hutchison, Dr. H. C., Executive Director  
Thompson, G. R., Deputy Minister







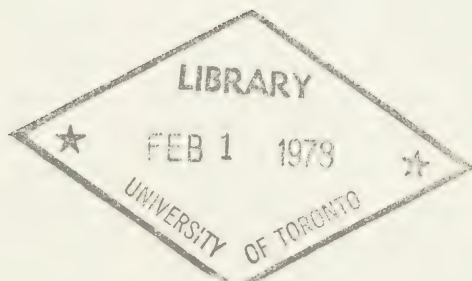
No. J-6

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Justice Committee

Estimates, Justice Policy Field



**First Session, 31st Parliament**

Thursday, December 15, 1977

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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## LEGISLATURE OF ONTARIO

THURSDAY, DECEMBER 15, 1977

The committee met at 3:37 p.m.

### ESTIMATES, JUSTICE POLICY FIELD

**Mr. Chairman:** I see a quorum and we will start the estimates of the Justice policy field on page J5.

**Hon. Mr. MacBeth:** I have a few opening remarks to make, if I may proceed with them. I will not go into a great deal of detail. The briefing material has been supplied in advance and there is more of it here, if any member does not have it with him or her.

This outlines the ministries and concerns covered by the policy field and the co-ordinating policy analysis and development roles of the Justice secretariat. I would like, however, to illustrate by referring to a couple of matters that I believe may be of particular interest.

You will have seen the reference to the proposed changes in legislation with regard to young persons in conflict with the law. This is federal legislation that is expected to be introduced shortly and which will replace the present Juvenile Delinquents Act. This has received a good deal of attention by the secretariat and a number of related ministries because, while it is federal legislation, it must of course be administered by the provincial courts, the various police forces and the juvenile correctional programs of this province.

How we respond to juvenile behaviour is of primary concern for the province and for people in local communities. It has such great importance in the life of the young person and for early intervention in delinquent behaviour and prevention of crime in adults. The secretariat co-ordinated the examination of the proposals contained, first, in the report, "Young Persons in Conflict with the Law," and, more recently, the document, "Highlights of Proposed New Legislation." The province has responded officially and copies of "Highlights" and the response were provided to the critics.

The federal-provincial consultation process has been a very good one in regard to this legislation. Original proposals have changed significantly as a result of our own

submissions, those of other provinces, the police and many community groups. These were submissions which examined the proposals in relation to the reality of the administration of juvenile programs and the behavioural development of young people.

We had a number of concerns which we now expect will be met in the final legislation. These had to do, for example, with the shortening of the maximum period of disposition; a minimum age of 12 years instead of 14 and flexibility in the maximum age; preventing federal intrusion into the provincial jurisdiction over the administration of justice; and avoiding certain costs and rigid requirements which would have been detrimental to juvenile justice. The new federal legislation will require changes in provincial statutes and these are now being studied.

I just mention these as an example of the way the policy field works. We were asked for an opinion by the federal government. The policy field discussed this on a number of occasions and, of course, all of the various ministries had contributions to make. It was up to the policy field to co-ordinate those opinions and make reciprocal representations to Ottawa. That's the type of work we have been doing.

I would also like to refer specifically to the publication of criminal justice statistics in Ontario, a copy of which you have also received. This represents our concern on the whole matter of adequate data and information in the justice system. This applies to both policy matters and operational information between the interrelated parts of the system. We are concerned about present limitations, which are reflected by fragmentation, inaccuracies, gaps, lack of timeliness et cetera. The secretariat has given priority to this issue, and this is reflected in the information you have received.

We have been very much aware of the significant levelling off and decrease in many offences. This, coupled with an important downward trend in the population growth rate and in absolute numbers of young people, has important implications for planning in the Justice field. I can assure you, however, that it reflects awareness and not complacency, for there are many issues which



are being addressed and which the briefing material reflects.

Those are my comments, Mr. Chairman. I think you all know my deputy, Mr. Donald Sinclair, here at my left with members of his staff, and we are prepared to do our best in answering the questions the committee may have.

Mr. Chairman: Thank you. I understand the Liberal critic for these estimates is tied up temporarily in the House. What I will do, with the permission of the committee, is that when Mr. Roy does arrive, I will recognize him and assume that he had his name down first on the list.

Mr. Lawlor: I am substituting today for our critic, Mr. Tony Lupusella. I have got some off-the-cuff remarks—rambling, I trust—to make about the ministry as a whole.

The ministry is subject to what we could call the "rain barrel" effect, covering such a wide number of areas that if you plug the hole in the barrel, the water springs loose somewhere else. It is precisely the job of the policy field to move in quickly and to do some more plugging.

There is no solution to the correction situation which we have just finished within the isolated island, as the Minister of Correctional Services (Mr. Drea) put it, of his ministry. The causalities working there came before his time. He is simply the recipient of a system. It is the system as a whole that has to be overseen and surveyed, and necessary steps taken to alleviate it.

Except for the very small handful of people, possibly eight, 10, or 12 per cent at the very most, who should be in jail, the balance ought not to be there. They ought to be in a whole host of other types of institutions. The number of people in jail who are psychotic, the number of people who are mentally retarded, the number of people who are there largely because of alcohol abuse or drug abuse is quite overwhelming. A frontal attack upon that, dealing with that in its own terms is, as I deem it, precisely the job of this ministry—to come to terms with it, to grapple with it and to work with it.

But it is not being adequately done. That's all there is to it. There is skirmishing around the edges, but coming to grips with these problems, if it has any efficacy at all—and the yearly panacea that is given by critics of this department that it ought not to exist at all—I think has validity. I think good work can be done and, up to a point, some co-ordinating agency such as this can be efficacious, and to a degree, has been and is being efficacious.

[3:45]

In your ministry, it will have to be expanded—I think you'll concede that, although I'm curious you didn't say something about it—to cover the role of the Minister of Community and Social Services with respect to juvenile offenders. Either a representative from that ministry is going to have to come and sit in on the Justice policy field because of its new portfolio and rôle, or some kind of liaison of a suitable nature, a backward and forward feeding, is going to have to be initiated. What precisely you've done in that area I'm not sure. It's very new and I have no doubt that you've addressed yourself to it—I trust you have—and can give some input. We'll come back to it.

I want to spend a few moments on the criminal justice statistics, which are valuable, novel and much to the point, just setting forth the statistics in this whole field. As I told the deputy minister a few moments ago, I was quite bemused with myself during the night last night to learn that all these pages of figures are enormously fascinating. For a person who has a purely nominal literary education to get caught up in these figures at 4 o'clock in the morning is something that I hadn't anticipated.

Hon. Mr. MacBeth: You must have had a very sleepless night.

Mr. Lawlor: Yes, it was a sleepless but somewhat even delightful night.

We could spend a lot of time on this document in going over them, trying to correlate the figures, which is extremely difficult to do. The amazing thing is that adequate records had not been kept in the past. Those records which are beginning to be kept are kept in a discordant fashion—I mean in various jurisdictions—and trying to compare our crime rates, our conviction rates and what-not with the Americans', state or federal, or much more that, with the other provinces of Canada and the federal government of our own country, is a task to conjure with. I would like to hear a few words said about just what you're doing in order to bring these statistics into line so that they'll be meaningful on a comparative basis.

One of the things that has always intrigued me quite a bit—more in the field of the Attorney General (Mr. McMurtry)—is the business of charges laid over against convictions achieved, and some kind of discussion, some kind of analysis as to the disparity between the two.

In your figures on page 49, for instance, the total Ontario charges received in a provincial court, criminal division, are four

million. Of those charges, the number of convictions and sentences in these same courts are 1.3 million on page 50. What happens to the rest?

Up above that are your figures with respect to withdrawals or dismissals, the total there being 350,000. Is an excess of charges being laid? The four-to-one ratio of the charges to the convictions—one has to concede that in impaired driving normally two charges are laid and one of them withdrawn, so you've got a 50 per cent withdrawal rate at that stage. But this is still four-to-one. It seems to me that it's simple over-charging.

Then when you turn over the page from that to page 51, you get these horrendous and highly self-serving figures from a police point of view in the Ministry of the Solicitor General. "Conviction rate for persons charged with indictable offences"—that's a fairly narrow range of the total amount of offences that we're talking about, but the figures start with "crimes against a person" at 80 per cent; "crimes with violence" at 91.6 per cent; and "crimes against property without violence" are 90 per cent. What a magnificently efficient police force we really have! It's a thing the Solicitor General could bask in. But the fact of the matter is I've just finished giving other figures showing that three out of every four cases are either withdrawn or dismissed, or at least no conviction is achieved on the thing. Then in between—there are about four steps in all this process as you read through this book—there are some very mysterious things.

The first step is "crimes reported," and then the next step is the actual number. At page 31 you've got a category there called "unfounded." I put a little mark around the "unfounded." I suppose even a critic of Justice could kind of dope out what "unfounded" meant if he really worked very hard at it. Then you come down to three and you get to the "charged." Then you get to a category at the end of page 31 called "cleared otherwise." I put a big question mark. What on earth does "cleared otherwise" mean? Finally, you get down to that last handful, relatively, of the actually convicted.

What I'm saying is this: Now we've got this, we go to the next phase, I trust, for next year's sets of estimates—namely that whatever your difficulties may be vis-à-vis other jurisdictions, just dealing with our own you would initiate an analysis for your own purposes, for clarification in your own minds, a definition of terms and an analysis of the stages and what it all means.

The crime rate for women is going up to what extent? Again, what diagnosis of the

condition of society do you make accounting for that?

There are statistics in here which show a lowering in many areas. The theft over \$200 goes up 18.4 per cent on page 22 and the theft under \$200 is declining. I suppose inflation just might have something to do with that. But if you take a look at other figures with respect to theft under \$200, they appear to be increasing. I'll leave this for the moment. As the debate develops I'll try to locate the pages in which that phenomenon appears et cetera.

I look at the federal statistics on drugs. The increase for 1975 to 1976 is 13.4 per cent. I don't know if your ministry is making any representations at all in light of the overall field with respect to the ongoing and continual increase in the utilization of our courts for convictions and matters connected with cannabis and that type of soft drug. I don't know what your opinions are about it.

I'm inclined to think it should be removed from the courts—not that it shouldn't have some kind of sanction vis-à-vis it, but the cluttering of the courtrooms on conspiracy charges, particularly in this particular matter, if it were removed, would have a substantial effect upon the case load problem we discussed at length in the Attorney General's estimates, which I don't wish to review. A certain weariness assails me at the end of a session.

I want to say finally, that the last time we met here was approximately three months ago, with the same minister and more or less, I think, the same critics—Mr. Roy will be here in a moment—and I hope we have enjoyed it. As far as I am concerned we've never come out of this room in the solid three months. We ate, slept and partially died here. It's been a rough session. I mean, we have been through a long, tough period in this room. I suppose, in the spirit of Christmas we should wind up the few minutes we have on this quite weighty field in a good temper and in the best mood we can.

There are a number of questions arising out of the background paper the minister was good enough to give us, and although I suspect we will never be able to get to many of them we will take a crack at it in the next few minutes.

**Mr. Roy:** How long have we been going here? I thought we didn't get going until orders of the day and we just finished that in the House.

**Mr. Chairman:** I saw a quorum. No one challenged that. I stated, that when the Liberal critic came in I would recognize him, and that seemed acceptable to the members of



the committee, including members of your party. So I now recognize you.

**Mr. Roy:** I would just like to put on the record my own views that when we have committees sitting in the afternoon like this we should make it clear when we are going to start. I thought that it was when orders of the day were called. In fact, I don't think they have been called yet. Members should know then they are to be down here.

In the House at present there are all sorts of motions affecting this committee and pertaining to Bill 59, the family law bills and bills presented by the Attorney General, municipal bills dealing with body rubs and things of this nature. I think, until the orders of the day start into something else, this committee should not. We can't be in two places at once.

It is my understanding that these committees usually started in the afternoon once the orders of the day were called in the House. I would just like to make that clear. It seems to me that should be the appropriate time, because some members may well want to be in there to present bills and things of this nature. I am not being unduly critical. I am just saying that in fairness to the members attending here.

**Mr. Lawlor:** Is that a point of order?

**Mr. Roy:** Yes.

**Mr. Lawlor:** I can well appreciate the hon. member's feelings but at the tag end of the session we only have until 5:30 to handle—how much money is involved here? Half a million dollars?

**Hon. Mr. MacBeth:** It's a little less than half a million.

**Mr. Lawlor:** And all we can do, is the best possible to get as much time in as we can squeeze—

**Mr. Roy:** I thought we had five hours for this actually.

**Hon. Mr. MacBeth:** I think the orders had set the secretariat down for 10 hours.

**Mr. Chairman:** If I may inform the Liberal critic on that, I think the understanding of the House leaders was that the time for debate on this particular item could be considerably reduced, and I checked with the House leaders and with the critics of all three parties, or of the two opposition parties and it was generally agreed, as I understood, that the 10 hours would not be needed and therefore the time was appropriately reduced.

**Mr. Roy:** Mr. Chairman, I am not going to spend any time on what I have to say about this ministry anyway. I certainly don't want to take—

**Mr. Chairman:** The member, of course, is free to put forth a motion that we sit tomorrow if he so desires.

**Mr. Roy:** Not for this ministry I am not.

**Mr. Lawlor:** Call his bluff.

[4:00]

**Mr. Roy:** It is not a matter of calling my bluff. You'll see in view of what I am going to say I am not going to spend much time in here anyway. I am speaking as a critic who has watched the establishment and progress of this ministry over the years, as one who objected to the establishment of the policy secretariat, and as one who has watched the early ministers who started this policy secretariat.

I think the first one was Allan Lawrence who took off and went up to bigger and better places according to some—the federal House. Then I think he was replaced by the Hon. Robert Welch who became policy secretary and who found out quickly there was no action there and got out.

It went on to the point where the uselessness of this ministry became so obvious that they appointed a part-time minister—you are, Solicitor General, doing this on the side. Frankly it is not only a problem with this policy secretariat, but the Justice policy secretariat appears to be the one which really has no raison d'être. The others have full-time ministers whereas this one here, for the last two or three years, has had only part-time ministers. That is the best evidence of what emphasis the Premier (Mr. Davis) puts on this ministry.

I don't want to be unduly critical of the civil servants who are within it. I am sure they are doing their best. I don't want to be unduly critical of my good friend, the minister, who is performing his function as Solicitor General. But I have attempted over the years to say that I don't think this ministry should exist. I have said that in spite of the published materials which we see from time to time and which I was just handed, "The Growth of the Laws we Live By." This is all very nice. We are flooded with all sorts of materials from all sorts of ministries. I really think this ministry should not exist.

I believe the ministers within the ministry don't pay any attention to it. The best basis on which to question what are we doing in this ministry is the amount of money we spend in other ministries looking at policy research and development. As an example, we spend \$1,014,900 in the Attorney General for legal research and policy development. For analysis, research and planning we spend something like \$67,000 in the Ministry of Consumer and



Commercial Relations, which is also under the umbrella of this ministry. We spend \$1,720,600 for the Ministry of Correctional Services, again for analysis, research and planning. Finally the Solicitor General himself, within his ministry, spends something like \$107,800 in policy research and development.

To total all of these things, we are looking at a figure close to \$2.5 million in policy research and development, which is not even within this ministry. Now we've got a separate ministry called the policy secretariat which spends \$463,000. I don't want to be unduly harsh, but the returns are really negligible. To spend any time on this is a waste of time and effort. No time has been allocated to look at the Premier's estimates or the cabinet estimates, yet we have set aside five hours for this. To me it is a complete waste of time and effort.

I objected to the establishment of the secretariat to start with, and for the past five years my colleagues and I—I am sure the minister recalls this—be it Mr. Bullbrook, Singer or others, have been extremely critical but our objections have fallen on deaf ears. In my opinion, it just doesn't work. It is needless duplication. It's a waste of the taxpayers' money.

I want to dissociate myself completely from the entire procedure. My staying here during these estimates will just give credence to the establishment and the functioning and the continued existence of this ministry. I should not spend any more time in here listening to this. I should not spend any more time giving credence to the continued existence of this ministry and so having made these comments, I will be on my way to do other things around here.

I will participate in the debate on the private member's bill in the House or I will do other things around this Legislature, because I see that our criticism has fallen on deaf ears. I don't know how we are going to get it across that if the Premier is going to establish these policy secretariats he should make some effort to make them work. He hasn't done that and he doesn't want to back off from his earlier policy in 1972 to say, "Well, I made a mistake. These policy secretariats don't work."

I just can see the Attorney General or Frank Drea waiting for the policy secretariat to give them some sense of direction. It's laughable. That is not happening and the best evidence that it's not happening is that these people are spending millions of dollars within their own ministries for policy research and development. Having said this, Mr. Chairman, I will be on my way.

**Mr. Chairman:** Before you go on your way, Mr. Roy, I would like to tell you that around 5:30, if these estimates are finished, this committee will be discussing the family law bill and the scheduling. You might like to come back for that.

**Mr. Roy:** Around 5:30? Well, if it's earlier, I will be either in the House or in my office.

**Hon. Mr. McBeth:** Before he goes, I would like to thank Mr. Roy for his very helpful and constructive remarks.

**Mr. Roy:** I don't know how else I am going to get my point across, that you are not doing anything in that ministry.

**Hon. Mr. MacBeth:** I would like to get back to some of Mr. Lawlor's remarks, if you're ready to move back at this time.

Mr. Lawlor raised a number of points. He talked about the number of people in our jails—and I know you have just completed the Ministry of Correctional Services. The rest of us believe the same and share those views with you.

Now that Mr. Roy has departed, I can tell you that a lot of the planning and a lot of the program that Mr. Drea has been able to launch was discussed in a fair amount of detail in the Justice policy field in an attempt to close down the number of institutions. We wanted to see whether we could not put these people to better employment than sitting around in the jails—in fact we wanted to see whether we couldn't reduce the number in the jails. A lot of that discussion has, of course, gone on in the policy field.

I know there has been considerable questioning over the years of the validity of the work of the policy fields. The main problem is that the work is internal. In other words, the cabinet members who are in the Justice field get together. There are two parliamentary assistants with us as well as the Minister without Portfolio (Mr. Henderson) and the deputies. When the policies are eventually pronounced, they are pronounced not by the secretariat but by the active minister. Therefore the work of the policy field and the staff members who provided a great deal of the analysis and criticism for the minister's proposal goes unrecognized. It is analysed, dissected and put together again in the policy field and then handed back to those ministries which make the legislation, or make a statement or whatever else is involved. So the appearance is that the policy field is doing nothing—that is not correct at all.

However, there are a few things that we are doing on our own and the evidence comes forward—

**Mr. Lawlor:** I wonder whether the Liberal

Party would be prepared to abolish this field should they ever attain office. I really do, for all the talk I hear.

**Hon. Mr. MacBeth:** I think that's right. It's certainly serving a function as far as the government is concerned. It is not playing the dominant role that some people thought it might play, but it is doing this kind of quiet work.

This is the sort of thing we can produce because it is done on our own and within our own ministry. I agree it should be playing a more dominant role and perhaps have a more forceful part to play. In other words, the policy fields should be able to dictate to one of the ministries involved just what a particular action should be, but to date the government has not taken that position. It's discussed there.

In regard to any particular policy or statement or program or legislation, the real clout still lies with the ministry involved and the cabinet. That does put the policy field in a secondary place and advisory capacity rather than in a commanding capacity. Something may develop over the years either through the present government or future governments, but I think it's too early a time to condemn it completely, as Mr. Roy has done, because it has taken some less imminent projects under its wing and has produced some of those things.

Mr. Lawlor dealt for some time on the statistics. Let me say we are proud that an attempt has been made to gather some of these statistics and put them together in a form which I think is almost novel in the province where at least we can start to examine them. Mr. Lawlor suggested we should carry on from here and do an analysis of these statistics and that's exactly what we hope to do.

I don't want to say too much for the accuracy of these statistics or the form in which they are put together because it is a first attempt. I think we can improve upon it a great deal as we go on to develop it. It is a first attempt and a very worthwhile attempt. Mr. Lawlor spent most of his time on the matter of statistics. Because he's better equipped and more knowledgeable, I would ask Mr. Sinclair to make a few remarks on it. If he would just say something on this, then we can go and do whatever the committee wants to move into next.

**Mr. Sinclair:** I think the only comments I can make are these. First, let me emphasize the importance that Mr. Lawlor has ascribed to knitting together the strange mixture of statistics that one gets from ministries within

the field. I say strange mixture because historically and understandably ministries have tended to collect those statistics which are of meaning to them and are valuable to them. In addition to that, they are prescribed by law to develop statistics in certain format for use of Stats Canada.

One of the difficulties one finds in trying to put together figures across the field, as Mr. Lawlor is well aware, is the fact that different terminology is used in different parts of the system. The police are interested in occurrences. The courts are interested in charges. Correctional services are interested in people. This is only one of the many difficulties we face in trying to make sense out of what seems to be at first blush a chaotic jumble of different kinds of figures.

[4:15]

I would like to say, in support of Mr. Lawlor's emphasis of the importance of getting statistics in which one has some faith, this problem has been very recently recognized south of the border where the United States government has actually taken an unprecedented step in setting up a national bureau of criminal statistics. They've taken out the criminal part of the whole national statistics effort and established it with an extremely large budget. I think the Attorney General of the US stated that the primary objective over the next few years is, as he put it, to try and clear up the whole statistical picture, because it is extremely confusing for some of the reasons I have given.

The other point I would make, and it's a very interesting one, and one we can only speculate on, is the very important issue Mr. Lawlor raised about the fact that crimes committed by women are increasing. As Mr. Lawlor said, there could be many reasons and one could spend until 4 in the morning speculating on what they might be.

What appear to be apparent or obvious reasons may not be valid. This often turns out to be the case when you're looking at causation in the criminal field. Some of the most common causes to which this is ascribed is the fact, more than anything else, that women are much more free than once they were. Women are working where they used to be in the home. They're out in places of entertainment, out on the streets, out at night, much more than they used to be. They're at risk, in other words, much more than they used to be.

On the other side, perhaps there is a tendency among police and prosecutors not to be as reluctant to press charges as they once were, but one could go on. The fact is, we really don't know yet, and we have not really



had a sufficient number of years in which to start making speculations which seem to be reasonably valid.

The only other comment I'd like to make, is that is a very good point about analysing these figures and we accept it. I would like to say this is the first time anybody has tried to collect statistics from the sub-systems—from police, from corrections, from the courts—and tried to put them together under one cover. We found that an immense job in itself, because not all of these figures were exactly pure and we had to ask many questions about them and check and double-check them. This was directed by Mrs. Lambert of our staff, who has expertise in this area, with the aid of two graduate students, and we thought in the time available to us we could do no more than collect them.

Our hope is that in future years we will be able to comment upon them and wherever possible to ascribe reasons for trends as they appear.

**Hon. Mr. MacBeth:** I don't think, Mr. Sinclair, that you're even suggesting that these are necessarily pure now.

**Mr. Sinclair:** They are pure in the sense that there are no figures in here that are drawn up by the secretariat. They are the figures provided to us either by Stats Canada, by all the ministries within our policy field, by police forces and so forth, so there is nothing here we have drawn up ourselves except for the graphical diagrams that we have inserted just for a simple visual picture of what's happening. The actual tables are those provided to us by the ministries or by Stats Canada.

**Hon. Mr. MacBeth:** The point I'm trying to make is that you cannot verify the uniformity of the criteria under which those statistics prevail.

**Mr. Sinclair:** No, sir, we can't guarantee that everyone who filled out a form—

**Hon. Mr. MacBeth:** Filled it out on the same basis. It's a start.

**Mr. Chairman:** Do you have any comments, Mr. Lawlor?

**Mr. Lawlor:** Yes, I have a number of comments.

**Hon. Mr. MacBeth:** It appears that the NDP are going to have to chair this almost completely, Mr. Chairman.

**Mr. Lawlor:** Yes, it does.

**Mr. Chairman:** It appears that way.

On vote 1201, Justice policy program:

**Mr. Lawlor:** We've become accustomed to that over the years.

On page seven of your brief, it says: "The communication linkages can be manifest in a variety of ways, including the sponsorship of forums with groups of citizens and with professionals." What forums have you been conducting or sponsoring with groups of citizens?

**Mr. Sinclair:** I'm sorry, I didn't get the reference. You're not referring to the statistics book?

**Mr. Lawlor:** No, I'm not. I'm referring to your briefing material.

**Hon. Mr. MacBeth:** We've had a number of them, but one in which I had a little part was the matter of examining the problem of juvenile delinquency and the offender. A conference was held on that some time ago in an attempt to get the various agencies involved with the young offender together, to gather their opinions as to the proposed federal bill, then to make our reply. So we had the conference. There were judges there, there were social workers there, people of one sort and another who had an interest in the field. We listened to them.

**Mr. Lawlor:** They were largely professionals, Mr. Minister?

**Hon. Mr. MacBeth:** They were largely professionals, yes, but that was one conference. Then we've had conferences on public drunkenness, which is always a subject you can talk about. Mr. Sinclair, can you enlarge on that?

**Mr. Sinclair:** Yes, sir, if Mr. Lawlor would turn to page 29 of the material we sent, among other activities of the secretariat we list, on page 28 we talked about two committees that were of particular interest because they were raised last year. On page 29 we mention the Council for Troubled Children and Youth and below that—

**Mr. Lawlor:** That's highly technical.

**Mr. Sinclair:** That one is, yes. Below that, sir, under five, workshops and seminars, there is mention made there of the two-day one done at the request of the Institute of Public Administration of Canada on the Justice Connection, where we mounted a program showing the impact from a systems viewpoint on public administration in the justice area. Over the page, there is another mention of our one-day workshop for discussion of programs and issues with regard again to information systems; a national seminar on guidelines for police; federal conference on diversion.

In addition to that, sir, I think we did mention last year within our estimates debate that



a meeting of about 20 to 25 people is held once a month in the Parliament Buildings here, in our own boardroom. The number varies from meeting to meeting. These are some professional people and some citizens. It's an ad hoc collection of people whom we gather together once a month to discuss topics that are of current interest within the justice field.

Last year we did extend an invitation to any members of this committee who wished to join us to do so. I think it was Ms. Sandeman who attended one meeting, sir, but she is not a member of the House now. She would still be very welcome to come, but it's a long way to come from Peterborough. The fact that we hold these monthly and they're held here in the boardroom over roughly a three-hour period does, I'm afraid, limit it fairly well to people who live in or close to Toronto.

The other kinds of groups we have had together tend to be smaller, 12 to 15 people we've gathered together, again on an ad hoc basis, some citizens and some professionals. There are groups that we have consulted for advice, for citizen reaction as we have been preparing the various booklets dealing with certain offences that the members have seen, one of which on vandalism has just been printed this week. We've circulated that this afternoon. Those are the ones that spring to mind, sir.

**Mr. Lawlor:** Let's just take one, the conference on diversion under the federal Department of Justice. What in summary form would you say the upshot of that conference was from your point of view in the Justice policy field?

**Mr. Sinclair:** Our input into that really goes back over a long period of time.

**Mr. Lawlor:** I am sorry, I'm not asking about your input. I'm asking about your output.

**Hon. Mr. MacBeth:** Results.

**Mr. Sinclair:** It was not our conference. It was a federal government conference in which they asked the province to participate. We sent members from each of the ministries and two members of the secretariat also took part in that conference.

There were no conclusions at that conference. There was a great deal of mixed opinion as to the directions that diversion should go. Some people were pressing for pre-trial diversion and others were pressing for considering diversion only after the trial. I think Mr. McConney, on my left, was a policy co-ordinator for us. He was one of the

people who attended that conference. I didn't myself. Perhaps he can go into more detail.

**Mr. Lawlor:** I would like a little more detail.

**Hon. Mr. MacBeth:** For the most part, I might say these are staff conferences rather than political conferences. I have been at very few of them. Most of this is staff work.

**Mr. McConney:** Perhaps I could add some comments in this way. It was a large conference with some 500 people, well over-subscribed from what the original planning anticipated. It was well representative of government people, private agency people, citizens, et cetera, from right across the country. I would add that through the assistance or intervention of the native council on justice in our own province, which operates under the secretariat, some six or eight people representing native organizations participated from Ontario, and there were others as well.

As the deputy has said, it tried to focus on the issues of diversion. It tried to expose for discussion and understanding a number of the projects and experiments that are going on across the country. It tried to identify the issues involved in this, both from the point of view of legal issues, correctional issues, citizen participation, administration problems, legal problems and so on. It attempted also to suggest, by way of a draft paper, guidelines as to standards of the development of diversion programs across the country. It made possible the participation of so-called experts, people who presented papers.

**Mr. Lawlor:** Did you get those guidelines in concrete form?

**Mr. McConney:** They are in concrete form. A copy could be made available. I don't have them here.

**Mr. Lawlor:** I would very much like to see that.

**Mr. McConney:** I could certainly make them available. There was an opportunity for input from the United States, where attempts to develop diversion programs, formal structures and so on are some years ahead of us and we can learn from any experience.

It was a three-day conference. There was an opportunity on one afternoon for the delegates and participants from each province to meet as a province to look at the guidelines, recognizing that in the implementation of any programs it will be very much a matter of meeting the particular circumstances, administrative structures and so on in a province.

As to the outcome of the conference, like most conferences but certainly at this one,

if one were to poll opinion and take a feed-back on the last morning, there was a combination of satisfaction and frustration. A lot of people felt there was an exposure of ideas. There was certainly a raising of consciousness and understanding about the issues and the importance of looking seriously at the whole question of diversion. There was frustration in the sense that where we had a dozen people in a discussion group, maybe we had up to 12 different ideas about what was meant by the term "diversion" and whether we were talking about diversion before arrest or diversion before trial, diversion after trial and disposition or before disposition.

There were a lot of differences of opinion as to just what it does mean and what it can mean in practical terms for execution.

**Mr. Lawlor:** What's the Ontario position, before and then after?

**Mr. McConney:** I do not think that there is a solid consensus on what the Ontario position was as represented by members from the various ministries, plus citizen groups operating with projects. What it did identify was the fact that there is not a solid consensus and that this is something that does need exploring in order to develop and look at the issues that are raised.

**Mr. Lawlor:** Are you presently exploring it or preparing any documents? Is there anything inside the ministry in this regard?

**Mr. McConney:** This is an item for further consideration. At the moment, it is in the ministries. The Correctional Services people are faced with project applications and proposals. We know that this is an issue that the Attorney General's people are looking at and we will be pursuing it as well in the policy field.

**Mr. Lawlor:** How many diversion experiments are going on in Ontario at the present time?

**Mr. McConney:** I don't have an accurate number personally. Perhaps, Mr. Deputy, you do.

**Mr. Sinclair:** I think, sir, the latest figure I had was nine projects, which are funded partly by the federal government and partly by the province.

In regard to what the secretariat is doing, I started to say that our input to this goes back a long time and I would like to repeat that. Three years ago we drew up discussion papers within the secretariat for the cabinet committee on justice. They caused a great deal of discussion which, I think, was very helpful at that time. It helped to clarify some people's opinions about them.

We have since then brought the subject before the committee a second time. At this point we are dealing with at least one paper which is a concrete suggestion as to how one particular group of people might be totally diverted from the system. That is the people who are presently liable to be convicted for the offence of public drunkenness. We take the view—as the province has already declared—that this is a health rather than a criminal issue. These people should not be placed in a situation where they might be jailed, but should be dealt with as any other person the community deems to be sick should be dealt with.

**Mr. Lawlor:** We have very little time left, and to let other people get in, I just want to ask one other question in a different field.

Are you now content with the federal legislation with respect to juvenile offenders? Secondly, you didn't answer my query as to your relations with Community and Social Services in this area in the secretariat.

**Mr. Sinclair:** Yes, I will be happy to do that—if I may, Mr. Minister.

In regard to the second of those two, sir—I am sorry—we do have a continuing liaison with the children's services division, both formal and informal. Formally, Mr. McConney, on my left here, is a member of a permanent interministerial committee set up by that division when it was first established. Secondly there are informal contacts on a very, very regular basis both with Mr. McConney and myself. And we try to provide whatever help and advice that we possibly can.

**Mr. Lawlor:** Do you think they should join the secretariat—or at least send a representative?

**Mr. Sinclair:** We have meetings held almost on a weekly basis—of the formal kind that Mr. McConney is attending. In addition to that, people of one kind or another are in my office perhaps once or twice a week, in regard to our advice on certain proposals or sounding out what we may feel.

In regard to the first part of the question—

**Mr. Lawlor:** I'm sorry. Who represents Community and Social Services at those meetings?

**Mr. McConney:** The meetings to which the deputy is referring would be the ones working on the provincial aspects of the new expected federal legislation—Mr. Paul Siemens is convening that group that's working regularly. And Mr. Rex Welbourn of our own staff is also most active in that.

**Mr. Lawlor:** That's where you go to them. Is that it?



**Mr. McConney:** If I might add, Mr. Chairman, there are two things going on. With the establishment of the children's division, it was agreed they should take the initiative with respect to the parallel and supplementary legislation that it was anticipated the Young Offenders Act federally will require. So it was agreed between the two fields that the initiative in this case should come from the children's division with our active involvement and participation.

**Mr. Sinclair:** Can I just correct that in case there's a misunderstanding? The initiative was to remain with the Justice secretariat until an agreement was made with Ottawa as to what the final draft of the proposed legislation would be. At that point it was agreed that we should hand over and the lead should then come from the children's services division, and this is what has happened.

In reply to your earlier question about are we satisfied with the federal legislation, I think, sir, the only fair answer is that we are as satisfied as we think we could be. One has to make some compromises because of the nature of federal-provincial meetings, as you well know. However strongly you may feel about a certain aspect of a proposal, when several other provinces take a different stance then one has to give way and hope to gain support in other areas.

But by and large, sir, we were very disappointed with the first draft we saw and protested most volubly. We were joined by other provinces on almost all the issues that we raised and considered to be of import. As a result of that, the revisions to the bill were drastic. I think that we can now say that it's a fair deal as far as this province is concerned.

**Hon. Mr. MacBeth:** I might add as far as the political—do you want to follow that up?

**Mr. Lawlor:** Yes, one comment. You eviscerated the legislation, and if you wish to give yourself some accolades on that account then that's your business. Okay.

**Hon. Mr. MacBeth:** We do think it's an improvement.

I wanted to say as far as the political level is concerned, and many policies overlap a number of fields—in other words, the police and the MTC have very many matters in common, so it's customary for the ministers to visit the other policy fields when there is any kind of a joint presentation. But that's the way the overlapping is done. For instance, MTC came to us the other day on a matter of plate-to-owner concept as opposed to plate-to-vehicle concept. There were four

or five ministries in the Justice field, including the MTC on that occasion.

**Mr. Lawlor:** Mr. Chairman, if somebody else wants to get in, I could continue, but I—

**Mr. Bradley:** If Mr. Lawlor wants to continue to pursue this line—

**Mr. Lawlor:** I'll ask a couple more questions.

**Mr. Bradley:** —perhaps I'll go in after.

**Mr. Lawlor:** One of the things that always has struck me as amazing since I've been here is that in all the estimates we go through, we're never been able to save the taxpayers a single dime.

**Hon. Mr. MacBeth:** I don't think you ever really try very much. I think you're more interested in seeing whether we've got enough money to carry out the programs. In that sense, you're very helpful.

**Mr. Lawlor:** I think we should ask ourselves why is this so. What is the purpose? The answer the Conservatives might give is that it's all being well spent. On the other side of the fence, that's against human nature. It couldn't possibly be.

In any event, let's take a look at some figures here. In this area in 1975-76, you purported to spend \$306,500. You asked for \$474,000 and actually spent a good deal less in that particular year. Can you give us any actual figures for 1976-77?

**Mr. Sinclair:** Yes, sir, I can. If one goes back to the beginnings of the policy field in 1972-73, we have spent—I'll just give you the rough percentages here; I can give you the details if you wish—in 1972-73, 72 per cent—

**Mr. Lawlor:** Sorry Mr. Deputy for interrupting, but you're far more clever than I am. I only want the figures—

**Mr. Sinclair:** I'll give you this. In 1976-77 we spent 80 per cent of what was asked for. The printed estimates were \$459,000. What was spent was \$367,904. That was 80 per cent of the total. The year before it was 80 per cent; the years before that 72 per cent; 75 per cent; 72 per cent.

We did not spend, in 1976-77, all the money allocated to us, and there were several reasons for this. Some of these were accounted for by staff vacancies which we did not fill completely. For the present year, 1977-78, you will wonder why we asked for \$4,000 more when we only spent 80 per cent of our requested amount last year. The reason for that, sir, is that for the first time since the policy field started, we will actually find ourselves by the end of March fiscal year in a very dicey area. We'll be spending



about 99 per cent, and that is mainly accounted for by the expenditures we got into in this initiative on publication of booklets and the statistical document that you have seen.

**Mr. Lawlor:** Take transportation and communication: Over against 1975-76, which was \$19,600; the next year, 1976-77, you spent \$15,600—quite a drop there; and now you're asking for \$16,800. It's quite amazing that over against two years ago you reduced it by \$3,000.

**Hon. Mr. MacBeth:** In 1975-76, I think the actual was about \$12,000, as opposed to the previous \$19,600, Mr. Lawlor.

**Mr. Lawlor:** Ah; it was about \$12,000, right?

**Hon. Mr. MacBeth:** Yes, in 1975-76. Is that right, Mr. Sinclair?

**Mr. Sinclair:** Yes. The later figure—for 1976-77—we spent about \$1,500 less than we asked for. In the current year we shall be spending a good deal more than we asked for in that area the previous year. This is simply because, as I mentioned, in the area of communications, these booklets are an item that will cost us more this year. Those booklets also enter into another aspect of our estimates; that is consulting fees because of the areas where we did seek consulting help developing some of the background material from which these booklets were drawn.

**Mr. Lawlor:** Yes. Under services—in 1975-76 you wanted \$93,800. What did you actually spend?

**Hon. Mr. MacBeth:** I think it was \$48,849, for the 1975-76 actual.

**Mr. Lawlor:** Now you're up to—

**Mr. Sinclair:** There's a good deal of that in printing costs.

**Mr. Lawlor:** You were telling me that communications was accounting for that.

**Mr. Sinclair:** Part of it, sir, is the preparation of the documents, part of it is the printing and distribution of the documents.

**Mr. Lawlor:** Okay; I haven't been able to save a penny.

**Mr. Bradley:** You haven't saved a penny or two, but I don't think I'll be very successful either. If I may, is it allowed in these estimates to discuss some of the materials you put out?

[4:45]

**Hon. Mr. MacBeth:** I wish you would, because these are some of the things we've been able to do on our own and show some product from the secretariat. If you have

comments, good or bad, we'd like to hear them. We only got into this program to any extent this year and this is why we actually have an increase in our expenditures, other than salaries, at this time. Let's have your comments. We'd like to hear them.

**Mr. Bradley:** First of all, I've received some favourable comment from people in the community about some of the booklets you have put out; that the content is reasonable, it's relevant to many issues which might be referred to as not only Justice issues but social issues confronting the province.

I'm looking at the booklet on vandalism. It's not surprising you would put one out on vandalism, because I'm sure you recognize as well as any ministry the problem it is. If you were to go to individual constituencies and ask different institutions, particularly school boards and municipalities, what their number one problem might be in terms of their buildings, they wouldn't tell you it would be maintenance, they would tell you it would be vandalism.

I look at some of the solutions—the suggested preventive measures on page 13 of the booklet—"What Can Be Done" I see some real problems with what you've recommended, not that they aren't good recommendations on paper.

Recommendation one, for instance, talks about improved lighting and greater use of alarm devices after hours at school. I don't know if you're aware of it, but the Minister of Energy (Mr. J. A. Taylor) is saying exactly the opposite thing. He is saying that you should be turning off all the lights in schools and public buildings to save energy. There's a contradiction there and I'm inclined to believe your ministry is correct in suggesting the lighting would be very useful. Again it shows where one ministry is conflicting with another ministry in its recommendations.

**Hon. Mr. MacBeth:** The point is that it's improved. It may not necessarily be more; in some cases if there's none I think it would mean more.

**Mr. Bradley:** Some of the schools are almost completely black at night.

**Hon. Mr. MacBeth:** Despite our honest desire to save energy, there comes a point at which you're making a mistake to do so. It's far better we should prevent some vandalism and burn a little more energy in the process.

**Mr. Bradley:** I would be inclined to agree with your recommendation on that.

The booklet talks about rapid and uniform reporting of incidents of vandalism and immediate repair of damage. I agree with the

immediate repair of damage, though there are some who would have a different theory.

I was the chairman of the transit commission in St. Catharines before I was elected to this House. Two common problems we ran into were the cut seats in the buses and smashing of windows in bus shelters. Somebody came up with the cockeyed idea that if you left the windows broken long enough there wouldn't be any more damage. It was my opinion that the faster it was repaired the fewer the people who got ideas of smashing other windows.

What has been your experience from your research?

**Mr. Sinclair:** The second is correct, sir; that's why we mention it here. The more often damage is repaired, the less the likelihood of more damage. Broken windows seem to attract more broken windows.

**Mr. Bradley:** I can only agree with that.

The third recommendation, more use of schools for evening and weekend community programs. Everybody says that, but it costs money to do it. In many cases, it is being done now. One of the problems—and I was a teacher who used to go into schools at nights and on weekends to have kids participating in activities—it wasn't the kids participating in the activities who caused the trouble; it was the kids hanging around outside because there was an activity going on.

I don't know how you overcome that, except I think it's a positive recommendation. I hope people recognize it as positive despite the drawback I mentioned. It shows the school can be used for recreational purposes and thus becomes less the object of distrust or hatred by kids who might be confined to the institution up to the age of 16. I think that's a positive recommendation.

I don't know what number four means, but it looks good on paper.

Number five, greater public understanding and co-operation with police. I think we all recognize the one problem with that: the neighbour who puts the finger on the kids who are doing it ends up the next week having his shrubs torn out or his windows broken. I don't know what the courts can do to prevent this from happening, whether society will ever be able to deal with the problem of what the kids would call retributive justice and what I would call vengeful acts.

Is there anything in the law that covers that, outside of what we normally expect in the law?

**Hon. Mr. MacBeth:** Not that I know of, other than further prosecution for the second offence. I think it's wrong, though, not to

follow those matters up and not to report them.

**Mr. Bradley:** It's the only way, I agree.

**Hon. Mr. MacBeth:** It's the only way. Once we become afraid to report breaches of the Criminal Code we are really running an anarchy. Certainly I think they should be reported and followed up as best we can.

**Mr. Bradley:** Number six, I suppose, is the meatiest section of this. It's also probably the most important in dealing with it once it happens, and preventing it by actions taken or what people know is going to happen when they take part in these actions.

I used to talk to kids who would tell me they had the court system figured out. They were five steps ahead of everybody else in the court system, and everyone would coddle them and say this, this and this.

They always knew the first time they smashed a window nothing was going to happen to them. Even if they got caught, what are they going to do? "I am 12 years old, and I don't have a father. I only have a mother, and we are a poor family. What are they going to do with me anyway?"

The second time they knew they would get maybe probation; and the third time some further step; but there was never a penalty.

I realize it's difficult to say that we are going to incarcerate you for 15 years if you smash a window or something stupid like that, but it is difficult when they know the number of times they are going to get away with it before there is really going to be a suitable prosecution.

I think the movement of the various ministries in the direction of, first of all, full and direct restitution, which I believe in very strongly; and second when you run into a family that has a poor economic background and from which restitution may not be practical the restitution is in the form of some kind of community work project that the young person or the older person would have to participate in. But I think for those who are able to pay for it, full and direct restitution is first and foremost what should happen.

What could happen in theory in a court system—and we are talking about a person who is a little older now, the person who does \$1,000 worth of damage—In the past the person was required to pay for that \$1,000 worth of damage and he may have been sent to court and fined \$300—and I don't know whether you can fine people that much for that activity. If the person couldn't pay the fine he went to jail for whatever number of



days. In that situation everybody has lost out. Society has lost out because it has failed to treat this person in a proper manner in terms of rehabilitation. Society has lost out because they have had to keep this person for a couple of weeks in jail. The person who had the damage done against his property loses out because he loses the \$1,000. So nobody really gains.

This is why I think it almost goes without saying that it's a very positive step; number one to have your judges ordering restitution; number two to establish some kind of a community work project which would compensate for this kind of damage, particularly when the damage is done to a public institution; when it is a private institution you also have them do a public works project—I don't know if I can draw a direct correlation.

Would you comment on the success of this in recent months? Are the judges really ordering these or is this just something on paper?

**Hon. Mr. MacBeth:** No; I think the judges are returning to more practical solutions. As you know, our aim now is not to lock people up, it is to get them making restitution and to keep them out of the institutions where possible. I agree with the suggestions that you have made, and I think there is more of that being done by the courts.

This is one of the things that Frank Drea is pressing for too, and I think he has received good support. We want to make a few changes to some of our laws to make these community projects more possible. They are possible now, but we think the law can be clarified to put them beyond doubt.

The government is going to make a real attempt to have community work project of one sort or another done and to make restitution where possible on this type of thing. Mr. Sinclair, the real question was how successful is what we are doing. Have you any facts or figures so we might be more concrete on results?

**Mr. Sinclair:** No, sir, nothing to add except for one thing; that is that the new young offenders legislation we were talking about earlier does lay even greater stress on using such measures as restitution and community service rather than other means of dealing with the delinquent.

**Mr. Bradley:** No question it's a positive step.

I would just comment on number 7 very briefly. Perhaps a right wing tendency comes out after my progressiveness has been expressed. Where it says "opportunities for social discontent to be expressed and communicated to appropriate authorities without

resort to violence and damage"—I could never see how you could ever justify vandalism under that. I think as long as there is anybody who says "he is really just showing his disgust for society," there are going to be people who are going so-called "show their disgust for society." I could never buy that as a reasonable excuse.

**Mr. Lawlor:** Except for Frank Drea. He just finished saying he saved \$10 million because of some kind of safety valve in the jails.

**Hon. Mr. MacBeth:** I think he is putting the reverse proposition though. He's saying that just because there isn't an avenue to properly express your discontent, that doesn't give you a licence to go out and do damage.

**Mr. Sinclair:** What we are saying here is no more than this: If there are outlets for school children or whatever, if there are channels, if there are mechanisms—

**Mr. Bradley:** As there should be.

**Mr. Sinclair:** —for them to say this is not fair, then you run less likelihood of people taking out their anger and hostility on the institutions.

**Mr. Bradley:** That's a fair comment and I think those avenues should be available.

Regarding number eight, talking about drugs and alcohol, we always look at the kids causing the so-called problems. But who does more damage than the goons who parade down the middle of the main street during a Grey Cup parade? Everybody says that's fun, that's acceptable, that's the Grey Cup hoop-la. And yet if kids were to go down the street in the middle of August and do the same thing those adults are doing in November or early December, we would be condemning them for three weeks thereafter. I think that needs to be said.

**Mr. Warner:** Do you not like football?

**Mr. Bradley:** Certainly I like football, but that is not football. It's not called vandalism; it's called high jinks.

**Mr. Bounsall:** Are you not for Canadian unity?

**Mr. Warner:** It's part of the Unity Train.

**Hon. Mr. MacBeth:** If you look at the bottom of page five, Mr. Sinclair draws my attention to the fact that the Grey Cup game is listed there: "Vandalism associated with various events—the Grey Cup game, college pranks et cetera."

**Mr. Warner:** Tory conventions.

**Hon. Mr. MacBeth:** Oh, I don't know that Tory conventions are any worse than any other kind of convention.



**Mr. Bounsall:** They're the worst.

**Mr. Bradley:** One thing I also like about this booklet is that there is not too much propaganda in it. The minister's name is only in it once and his picture is not in it at all. And it doesn't say, "Another Book on Vandalism," in the way you see on the provincial highway signs, "Another Highway Development Project." There is not another booklet on some justice problem in Ontario. I commend you for that.

**Hon. Mr. MacBeth:** I guess somebody had to take responsibility for these things; and although I have very little to do with the production of them, I do have to answer for them. We did get a few questions on our exhibitionism booklet, but I think we answered them to the satisfaction of most people.

**Mr. Chairman:** It's particularly to the advantage of the economy, because it means that the opposition members, and other members of the House perhaps, only have to staple one of their cards over the minister's name when they give it out.

**Hon. Mr. MacBeth:** I'll mention a little incident while you are looking at the book. Lorne Maeck, the member for Parry Sound, as you know used to be in the school bus business. He said slashing of the seats was a problem for him as an operator. He overcame that by delegating a student to a particular seat, and he sort of held that student responsible for that seat. Some of the parents complained because their children were at the back of the bus all the time, and he had to institute a rotation system. But he said that by applying your mind to some of the vandalism problems such as this one, you can eventually overcome them. After the allocation of the seats and the rotation, he said he didn't have any more trouble with slashing.

**Mr. Williams:** A supplementary on the point that Mr. Bradley was making on number eight or that I thought he was going to make on number eight: I am wondering if you could elaborate, either yourself or the deputy, on exactly what you mean there by "more positive control over the use of alcohol and other drugs."

With regard to alcohol, which is a permissible use, we've talked many times in the Legislature as to how to get a better handle on the social problems associated with alcohol. But to my knowledge the drugs that I gather are being talked about here are those that are not permitted uses but rather come under the Criminal Code and, as such, I am wondering how you can apply more positive controls to the use of illegal use of drugs. I'm just wondering if you might want to elaborate.

**Hon. Mr. MacBeth:** I guess it is one of those ends that you hope to be able to accomplish, like the abolition of drunkenness or something like that; really it's more hoped for, I suppose, than expected. Drunkenness is one of the matters that the policy field has been studying—not that we expect to get rid of drunkenness, but in terms of how we can better deal with drunkenness—and if we could remove drunkenness from public places, then I suppose there would be a lot less vandalism.

What those positive controls are, whether they are referring to police action or more restrictive sale of alcohol, I don't know. Have you anything to say to enlarge on that, Mr. Sinclair?

**Mr. Sinclair:** I would just like to draw to the attention of the committee that this section is prefaced by the statement that a number of conferences and studies have come up with a wide variety of proposals. We have listed what has been other people's experience, taking a look at reports in this field—mostly, admittedly, from the US but some from Canada, and in particular conducted in the city of Mississauga two years ago.

I would think that what is intended here by more positive control is no more than saying that to prohibit alcohol is a useless endeavour and that what we are asking for here is that people exercise control in the use of it. Perhaps the wording is not as good as it might be.

While we are on this, I wonder, if I may say one other word, because I think it would be of interest to the members—

[5:00]

**Mr. Williams:** I'm sorry to interrupt you, Mr. Sinclair, but I think I made the distinction that alcohol is something that is accepted and used; there's a legal use of it in society, although its use is abused on many occasions. But in the other case I am trying to determine what you mean by positive controls in relating to the other social problems associated with the illegal use of drugs, which are prohibited from use—

**Mr. Sinclair:** Not always, sir. For example, there are forms of medication drugs which, if taken together with alcohol, can have quite disastrous effects. As you probably know, young people today have found this out and do mix alcohol and certain other drugs, which they can get prescribed, with pretty deadly effects.

**Mr. Williams:** I just didn't know whether you were suggesting in the statement that decriminalization of illegal drugs would be a positive step.

**Mr. Sinclair:** No, sir.

**Mr. Williams:** It is just there is a certain kind of ambiguity in that, that is why I asked for elaboration.

**Mr. Sinclair:** I am sorry if anyone gets the impression that we are recommending any such change in regard to drug usage.

**Mr. Warner:** Just to follow up on this: Did I hear the deputy mention something about a bylaw from Mississauga?

**Mr. Sinclair:** No, sir. I said a study of vandalism had been done in the city of Mississauga which is probably the biggest study that has ever been done on this one subject in Ontario.

**Mr. Warner:** I don't know if the two are connected, but if I recall correctly they ended up bringing in a curfew bylaw. Is it your understanding that that is one of the results of their study? Are the two not connected?

**Mr. Sinclair:** The study was completed a long time ago—about 18 months ago. The introduction of the curfew, which I understand has since been rescinded, was just about a month ago. Whether there was any connection or not, it happened.

**Mr. Warner:** It really bothers me that they have done an exhaustive study and they end up imposing a curfew, which doesn't make any sense and doesn't work. The minister probably recalls the chief of police there said the curfew was unenforceable and it wasn't the right way to deal with the problem anyway.

**Hon. Mr. MacBeth:** The real way to deal with those problems, of course, is to get to the root of the problem. All you are doing is glossing it over when you have that kind of legislation.

**Mr. Warner:** I acknowledge, Mr. Minister, there are some very serious problems with respect to vandalism. The bills are sizable. But it always strikes me, if you really want to get to the heart of the whole matter that (1) you fit the punishment to the crime, so to speak, and (2) you undertake to understand what prompted the action in the first place.

By way of example, I can only come back to the way in which I recall over a period of more than a decade dealing with youngsters, many of them troubled youngsters, in the school system that very thing was done. If someone broke a window there was a fitting kind of punishment. That is that the person who broke the window often was involved in the replacement of the window, physically replacing the window; or if that

was not possible that some form of restitution was made. If the person couldn't afford to pay then a suitable amount of work was undertaken, priced at whatever the going rate was. At \$1 an hour, if it was \$30 worth of glass we are going to have 30 hours of productive, useful work around the school building.

At the same time there was an undertaking to find out what caused the problem in the first place. Why is this youngster breaking windows? Nobody just runs around breaking windows without some reason behind it. That is through understanding youngsters, finding out what is going on, why is it that a youngster would do a thing like that, where is the source of the problem.

That is long and involved. I can recall the hours involved in all of that, to the point of my spending time with that youngster, that youngster coming to my house with the family, to working out with the youngster in the morning. Do you know where most of those youngsters that I dealt with ended up? On my baseball team, doing calisthenics at 8 o'clock in the morning, which I did with them.

All of that involves some direct involvement. To tell you truth, do you know what I contrast that with in my own mind? Hearing accounts of Judge Dnieper and the way in which he deals with individuals who show up in his court. If you can't pay, that's tough.

**Mr. Lawlor:** If you're from the House you go to jail.

**Mr. Warner:** Right. More than that, when the person in front of him said, "I will be receiving my welfare cheque in three days, perhaps we can wait three days," he would say, "I can't wait three days. I want the money now. If you don't have the money you go to jail." Contrast that against what I just mentioned, the desire to find out what individuals are all about, because collectively individuals make our society. If you want society better then you have to deal with it in that way. We need fewer Judge Dniepers and more Patrick Lawlors obviously.

**Mr. Chairman:** We don't want him made a judge just yet.

**Mr. Warner:** I understand, Mr. Chairman, we are winding down towards the end and I don't wish to hog the time, but I just simply wish to perhaps put my frustrations forward. I don't think that our justice system in totality really gets at the heart of the problem and really deals in a compassionate way from the very beginning. There are too

many troubled youngsters and there are not enough answers for them. There are not enough answers being supplied at all. It is not a simple matter.

Somebody mentioned earlier about alcohol and the problems related with crowds. I submit that you create more problems at Exhibition Stadium by making the sale of beer illegal than you would had you legalized the sale of beer at Blue Jay ball games. What happens is, as you and I know, the individuals bring mickeys with them to the stadium and they must consume the entire contents before leaving, whereas had the person been able to purchase a beer legally he might have had one or two pints of light beer, perhaps, the half beer or whatever it is called, and that would be the end of it all and the person would be fully in control of himself. Instead, you have perhaps created a worse problem. It is not a simple matter, I agree, but I think that this justice system should stand back a bit and take a better look because things aren't running the way they should be.

**Mr. Bounsall:** I have just a word or two about the alcohol problem that we are into as it affects highway safety—I was on that committee—particularly the problem of drinking and driving, which turned out to be far and away the thing we had to deal with and contend with as being the number one problem on the highway. Many of the recommendations involved changes to be made in the whole Justice field.

I assume you or one of your representatives is on this interministerial task force that is trying to come to grips with the recommendations we made in this whole area. How are things coming along in terms of setting up programs to differentiate between the social drinker and the obvious problem drinker, which I gather has changes and implications in the Justice field which the Minister of Transportation and Communications by himself can't do?

**Hon. Mr. MacBeth:** I personally am not on that committee but I know the Solicitor General's ministry is represented on a committee that is examining the report to make recommendations as to the implementation of the recommendations made by the select committee on highway safety. We have already picked up one of them, as you know, in the anti-radar detection bill that went through the other night.

Specifically, dealing with drunkenness, the police, particularly at this time of year, are doing their best to combat it. I don't know what more they can do.

We have had a very successful RIDE program in Etobicoke. RIDE stands for, "reduce impaired driving in Etobicoke," if I have it correctly. It has been an intensified campaign. It is manpower heavy, and that is one of the problems Mr. Warner was talking about.

All of these programs, such as dealing with children to try to get them going in the right direction, are so manpower-intensive. Similarly, trying to do police work to get the drunken driver off the road is manpower-intensive. The RIDE program has been successful, but there really are not sufficient police officers on the Metro force to give the kind of concentrated effort that they have done in a limited area all across the Metro area.

I think the police are doing their best. I honestly don't know what you do with a social problem such as drunkenness. We are all ambivalent. I think that's the best word I can think of when it comes to it. We all think that we are able to drink and carry on, but that the next fellow isn't able to do that. It's a real social ill.

The schools are doing something about it and where it has got to be done, if it is done at all, early in the school system. School teachers are likewise the best people to do the thing that Mr. Warner is talking about. When they find children who have a problem, they can spend some time with them and do just exactly as he evidently used to do.

I am afraid compassion at the higher levels in the court system, in the justice system, comes pretty costly. I wish we did have enough judges. We can all point to individual judges we do admire for the time they take, the compassion they show and the novel ideas they have for dealing with the problem. Regrettably, it is not easy to get a bench full of these persons. First of all, the persons we all admire in this way are not so numerous; and secondly, it is a costly level at which to deal with the problem.

We are open to suggestions. I don't know whether Mr. Sinclair has anything to add on the problem.

**Mr. Sinclair:** Our concern has been demonstrated in this whole area of drunkenness. Some of the present members of this committee will remember that last year Mrs. Lambert and her group were responsible for this document. This year we did a study on the extent to which alcohol is involved in the commission of all types of criminal offences. You may remember this document was circulated to members last year. The surprising



thing, even to those who have been working in this field for a long time, is the tremendous extent to which alcohol is involved, no matter what the offence.

This year, in keeping with the program that we have developed with the Ministry of Education's support and through the police pushing it within the schools, we have developed a series of booklets. All of you should have received this one on impaired driving. It is used as a topic, similar to the way in which vandalism was dealt with in the booklet we were discussing earlier.

How much we have been achieving with this is very questionable. We can put the facts in front of people and we can try to develop information for teachers, social workers and others who are involved with kids, but basically it is a problem for parents initially. How far you can go in attempting to have parents take this up seriously with their children is another question. [5:15]

**Mr. Bounsall:** With respect to the manpower problem for any of your programs—RIDE and so on—the problem of the drinking driver is fairly uniform throughout the week, and fairly low. Where it really takes off is between 8 o'clock at night and 4 the following morning on Friday and Saturday nights. So you do know when to concentrate your limited manpower in trying to help cut down on the number of people out on the roads when they are not fit to be there and are creating danger for other people.

Of course, the number of accidents that are alcohol-related certainly takes that same jump in those exact periods. It is hard to get all of your manpower out on the roads between 8 at night and 4 in the morning on those two nights; but obviously you could almost let the rest of the week go, in terms of enforcement of the law as it applies to alcohol-related driving; and possibly on many of your other crimes as well. If this is when people are out drinking, and it appears that it is, then that is the time you need all your enforcement, in a whole host of areas; certainly in driving.

**Hon. Mr. MacBeth:** There is no question about it; as far as the police are concerned, Friday and Saturday nights are the worst of all. It gets to be a problem of scheduling manpower, and I am sure that is when most of the police are on duty.

**Mr. Bounsall:** I haven't yet had a chance to look at your statistics book on these crimes; but are those times of the week related to other offences?

**Mr. Sinclair:** Yes. As a matter of fact, if

you would like me to read them, there is a very short paragraph here—

**Mr. Bounsall:** No, not so much the traffic stuff; it's the other book that had all the crimes, all the categories; were they related to any special time of the week as well?

**Mr. Sinclair:** I wish we had the manpower to do that, but we didn't. On this study of alcohol we did, because we had the manpower to do it; it was a very small area of the total. If you would like me to read a couple of sentences here; they say, "The peak days of the week were Friday and Saturday nights. However, aside from Monday, which showed a much lower proportion of such offences, and Saturday with a much higher proportion, Tuesday through Friday tended to show only a slight variation. The high rate for Sunday was largely attributable to the spillover from Saturday night."

So you are quite right. The other interesting thing, sir, that struck us as we compiled these figures is that, as you would expect, during the period from early in the morning until noon there is very little happening. It really gets wild from about 10 o'clock at night until 2 in the morning.

**Mr. Bounsall:** It strikes me you could almost draw the conclusion, with respect to enforcement around the province that you could perhaps have a lot fewer full-time officers and a lot more part-time officers in very selected hours of the week, not just for the traffic problems but for all crime problems.

Of course you couldn't let word of this out, you couldn't advertise the fact, because then the crimes would be deliberately planned to be committed on Mondays. I can hardly ask the question whether or not you are doing this; it might make you spill the beans.

**Hon. Mr. MacBeth:** I am sure police scheduling is geared for those hours; but I don't know that the police have ever considered part-time employees or part-time police for those hours. Maybe they could have the auxiliary police, who are not paid, come in on special emergencies. That's a thought we will put forward.

**Mr. Chairman:** I have a list—Mr. Ruston, Mr. Lawlor, Mr. Stong and Mr. Williams. We were hoping we would have a meeting of the committee in camera around 5:30 p.m.; if there are more questions we could of course go longer. We do have, I believe, a vote in the House at 5:45 p.m., and the committee may not wish to sit tomorrow. I am assuming that is their wish.

I just give that as a word of caution as

you ask your questions, and perhaps also as the answers are given.

**Mr. Ruston:** I will be very brief. I seem to face out in the community and with the public with the frustration they see, not only in the enforcement of the law at the police level—which I don't think they have too much frustration with—but at the court level.

There was a certain case, so noticeable in Toronto, where a lady ran a small store and the same fellow broke into her store four times. On the second occasion I think he was on bail; his court case was adjourned and he broke in again when he was released from jail. Really, it seems to me that the public is more concerned about our court and justice system after the arrest, more so than at any other time. I have read or heard of reports on the number of people on adjourned cases who commit further crimes.

I think in the city of Detroit—and we are not the same, but when you get into big cities like Metropolitan Toronto, I imagine it must be similar—that 8,000 people on the streets were on adjourned cases; they were all charged with something. They hadn't yet been convicted, but they must have been arrested for a reason—and 8,000 of them were out.

They have taken steps to solve that problem over there by appointing an administrator of the court system; judges are there and they are operating seven or eight hours a day; they are getting rid of the cases.

So there is this concern in the letters and the telephone calls I get from people. The courts are dealing with some pretty serious cases. Somebody breaks into a home and beats somebody up. That's a pretty serious case as far as most people figure, because after all your home is supposed to be your castle and you should have the right to stay there in comfort. From the letters and things I get from my constituents. I think they are most frustrated by the way in which the courts are dealing with the cases they have. I don't know how you get the courts to reflect the feeling of the public, but there's a real worry out in the public as far as I am concerned.

I certainly don't know how to solve it, but I suppose one of the ways of solving part of it—and it's always a case of money I suppose—is to see that these court cases or the charges are dealt with in a reasonably early manner; the case is resolved and the public is then at least aware that it is getting respectable decisions.

But I really feel from the amount of letters

I get, and especially telephone calls from people who have read of something that happened, that they are completely frustrated. They feel that our courts are not dealing with these situations the way they should. I know there are some people who have different opinions of what sentences should be and, of course, that's what we have judges and juries for—but the main concern of the general public is the amount of time it takes.

**Hon. Mr. MacBeth:** I think you have certainly found where the problem is; it's in the court system. Maybe we have too many police and maybe we are bringing too many people in for trials.

There is, of course, the theory that every policeman you hire generates so many charges, and if we didn't have so many policemen you wouldn't have so many cases for the courts to deal with; and there's some obvious truth in that. But certainly where the jam-up is taking place is in the court system, and that's creating problems for the police because of the time they spend in the courts; and it is also creating problems for Correctional Services. When somebody is awaiting an appeal they have to hold him in a different kind of institution than they would prefer to hold him in and there's transportation back and forth; so there are all kinds of problems.

I think some of the factors that created that problem are a shortage of judges and the growing population. Steps have been taken recently to increase the number of judges. We certainly need more court space; and the province is behind in that, there's no question. We are trying to create more courts.

I would put some responsibility—and I am not being critical of it—on Legal Aid. The fact is that people who used to plead guilty and hope to get it over with in a hurry are now deciding they will appeal their cases. That can be right and it can be wrong, depending on the reasons for appealing it, but I think Legal Aid is certainly one of the factors.

Of course the courts were not meant to function on a production line basis. Judges, and certainly the legal profession, don't want to function on a production line basis. But I think both judges and the profession could do more, much more, to make themselves more efficient. Certainly the Attorney General (Mr. McMurtry) is trying to do his best, and the various senior judges who have some responsibility for the administration of their courts are trying to put pressure on both the legal profession and the judges to carry a bigger work load; to have their cases not



adjourned and to be ready when they are set for trial. So you certainly hit the source of the problem.

I think Mr. McMurtry, through the various factors I have mentioned, through the various means I have mentioned, is doing his best to clear it up; but certainly there's a lot to be done.

Mr. Lawlor: Just very briefly. I have quite a number of questions, particularly in terms of this analysis. I would have the people look at page 54 of this thing, which shows how the crime rate is falling tremendously.

Rather than asking a question, I would like to make a statement. I would like the policy committee to give some thought to the abduction of children, particularly with respect to the laws of extradition and how that works. I don't think we have time to discuss it in any depth here now, but it is a cumulative and very thorny problem indeed.

Hon. Mr. MacBeth: May I say this? You mean you would like us to take it under review and see what recommendations, if any, we can make?

Mr. Lawlor: Precisely. That thing is very loose at the moment.

Hon. Mr. MacBeth: It certainly is. We have all read of the recent cases in the paper. Mr. Sinclair, if you would make a note of that.

Mr. Stong: Mr. Chairman, first off I would just like to say I am pleased to be able to participate, even if it's ever so briefly, in this type of a situation, but particularly as the secretariat provides an overall view.

You will recall that during estimates of the Solicitor General, Mr. Minister, I was referring to the role of the police as it's ever expanding and as a society becomes dependent on it. You will likewise recall that on December 1 I asked you a question arising out of a notice that a letter had been sent out by the York North Law Association. At that time I asked you to inform yourself about the problem that they were experiencing.

I asked you as well if you would attend a meeting, or have a representative attend a meeting, that they had planned on holding. At that time you indicated you would, and subsequently you changed your mind because of a letter that you had received. The meeting of the lawyers was held last night.

I have read, and I would like to tie in briefly, the paragraph in your support material for these estimates, where it reads that it is "appropriate that the secretariat, with multi-ministry interests, serves a communications role, as required, with the public and

with other levels of government and non-government organizations. The communications linkages can be manifest in a variety of ways, including the sponsorship of forums with groups of citizens or with professionals to discuss developments in the field of justice."

[5:30]

Earlier today in the House I sent to you a notice of that motion passed last night by the York North Law Association. I questioned them as well, this committee, with respect to their authority to act on behalf of the entire association. I was assured at that meeting that they did have the authority of the association. They did pass this following motion, and I'll just refer to it briefly for your purpose.

They are concerned. They "recognize the very great importance of having good and proper policing in the region of York". They go on to say that they "wish to do everything in their power to assist the York Regional Police to have good relations with the general public, and in particular with the young people in this community, and to provide proper policing."

They recommend establishment of an award which the law association would award to an officer who demonstrated his ability to maintain self-control in provoking circumstances.

They went on to offer their assistance to the police officers to better fulfil their duties and to improve public relations by preparing in co-operation with the board of police commissioners, the chief of police and the York Regional Police Association, a code of conduct, setting out in point form how a police officer should properly conduct himself or herself.

They went on to indicate that they are prepared to provide seminars, in co-operation with the board of police commissioners, the chief of police and the York Regional Police Association, on proper police conduct and procedures.

They also offered to become a forum wherein they could invite members of that association to voice their complaints and bring them to the commission, and they also made known their support of Bill 114, An Act to amend the Police Act.

Keeping in mind that the York North Law Association has expressed a concern as a law association—and I was assured last night that that committee had the full force, in effect the entire support of the association—and keeping in mind in your support material that you, in your capacity as minister



of the Justice Secretariat, like to become involved with citizens groups, non-professional and professional, I would ask you then, in your role as minister, to communicate with the York North Law Association, which seems to be experiencing difficulties, but is prepared to assist and offer its expertise. Would you reconsider your decision not to become involved at this stage? I'm asking you to become involved and give them the assistance they seek, and accept the expertise they obviously do have to offer.

**Hon. Mr. MacBeth:** Mr. Stong, I'm being very careful before I say yes, for good reason as you know. You raised the question in the House and I think the York North Law Association was somewhat embarrassed by it subsequently. I've had some correspondence from Chief Crawford today. I thought maybe in fairness to the chief I might read that into the House record. Then I thought maybe it would be a little unfair to you if I did it, because he was objecting to the fact that you'd raised it and it really wasn't any great problem.

So you asked me, "will you go?" The last time I said, "yes, I would be glad to go"; and the reply immediately came from the York North people that they didn't want me. I don't think it was because of my politics, but I think it was because it was none of my business at that point. In other words, they didn't want to make a big fuss out of it. I think you've acknowledged that yourself.

So when you're asking me now, "will you go?"; yes, if they want me I'll be glad to go. If I can be of any help or if anybody from my ministries either the Justice policy field or the Solicitor General's can be of any help, we'll be glad to be present.

**Mr. Stong:** Supplementary: They are offering their services and it's completely consistent with what you have in your support material. I thought it would be valuable to you and at least to them as an association.

**Hon. Mr. MacBeth:** Good.

**Mr. Chairman:** One last question, Mr. Williams.

**Mr. Williams:** Yes, very quickly, Mr. Chairman; I think some of the problems we've been talking about here today, particularly with regard to the attitudes developed by young people and associated with vandalism and drunkenness, the misuse of alcohol and some of those things, have been

recognized to have perhaps to some extent arisen out of a disrespect for law and the law process that young people develop at an early age. In that sense, I think a very real part of the problem is the question of public attitude and a disrespect or cynicism toward the law that can develop.

In looking at this booklet, "The Growth of the Laws We Live By," this looks like a very positive document and the type of thing that I think should prove very useful if we get enough of them before the young people in the schools so that they can try to develop a more positive attitude toward and respect for the law.

I note that these documents are going to be distributed on an experimental basis in Huntsville and London. Has this distribution been made at this time? If not, when will it be done? What will be the monitoring period before you are in a position to get a report back on use of this type of positive material?

**Mr. Sinclair:** I'd be happy to answer that. This booklet has already been distributed in one of the two areas, Huntsville. It will start being distributed in the London area next week, Tuesday or Wednesday.

The process we have for monitoring the success of this is now in place and we expect to get some feedback within a month of the distribution. If this is as successful as the police who have been privy to the documents so far feel it will be, then of course we shall spread the distribution beyond the two cities.

Unlike these other documents which are produced very cheaply, this, because it's going to children, is coloured and is therefore more expensive. We didn't feel we were justified in distributing this right across the province until we'd had a sounding from a couple of areas as to how it went over, because however well we may think it might go over, it's really the children's reaction that's going to count.

**Mr. Williams:** I'd appreciate being advised as to the results.

**Mr. Sinclair:** Yes, sir, I'd be very happy to. We shall do that.

Vote 1201 agreed to.

**Hon. Mr. MacBeth:** Thank you, Mr. Chairman, and thank you, members of the committee.

The committee adjourned at 5:37.

## CONTENTS

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**Thursday, December 15, 1977**

<b>Opening statements: Mr. MacBeth, Mr. Lawlor, Mr. Roy .....</b>	<b>J-137</b>
<b>Justice Policy Program .....</b>	<b>J-143</b>
<b>Adjournment .....</b>	<b>J-156</b>

## SPEAKERS IN THIS ISSUE

---

Bounsall, E. J. (Windsor-Sandwich NDP)  
 Bradley, J. (St. Catharines L)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, Hon. J. P.; Provincial Secretary for Justice and Solicitor General (Humber PC)  
 Philip, E., Chairman (Etobicoke NDP)  
 Roy, A. J. (Ottawa East L)  
 Stong, A. (York Centre L)  
 Warner, D. (Scarborough-Ellesmere NDP)  
 Williams, J. (Oriole PC)

**Provincial Secretariat for Justice officials taking part:**  
 McConney, D. M., Policy Co-ordinator  
 Sinclair, D., Deputy Provincial Secretary







No. J-1

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Wednesday, May 3, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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Bradley, J. (St. Catharines L)  
Campbell, M. (St. George L)  
Cureatz, S. (Durham East PC)  
Davison, M. N. (Hamilton Centre NDP)  
Eaton, R. G. (Middlesex PC)  
Handleman, S. B. (Carleton PC)  
MacBeth, J. P. (Humber PC)  
Roy, A. J. (Ottawa East L)  
Sterling, N. W. (Carleton-Grenville PC)  
Stong, A. (York Centre L)  
Swart, M. (Welland-Thorold NDP)  
Taylor, G. (Simcoe Centre PC)  
Williams, J. (Orillia PC)  
Ziemba, E. (High Park-Swansea NDP)

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 3, 1978

The committee met at 10:10 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

**Mr. Chairman:** Mr. Handleman has suggested that I read the motion from the procedural affairs committee presented in the committee's report and moved for adoption on April 6, 1978. I think that makes a lot of sense. The motion is as follows:

"Your committee recommends that it should be the practice of this House in the committee of supply that critics be permitted considerable latitude in speaking on vote item 1 and that thereafter members adhere strictly to the particular vote and item under consideration.

"It further recommends that the chairman at the beginning of each minister's estimates set out a time schedule for the minister, the critics and the members.

"The committee further recommends that this committee be empowered to hire staff."

Some of the others are of less direct concern to us at the moment.

I believe Mr. Handleman was suggesting that we stick to that. I would also recommend—and I brought this up at the Speaker's panel—that I will not accept any substitutions unless they are in writing and at the beginning of a session. I hope you can get that back to your caucus. I realize I have been a little bit stricter on this than perhaps some other chairmen have been, but I think that if there comes a crucial vote at any point, it is better to have that clearly understood. Unless I receive notice of a substitution at the beginning of a session, I will not recognize the member for voting purposes. Is that agreed to by the committee?

**Mr. MacBeth:** When you say "at the beginning," Mr. Chairman, surely you might allow five or 10 minutes after the beginning in case someone arrives late.

**Mr. Chairman:** Within the first 15 minutes. Is that agreed to then? Does that make sense? Where we have the problem is when we have substitutions that simply drop in and say, "I am substituting for Mr. So-and-so." They do so at 11:30 just before a vote.

**Mr. Handleman:** The reason I asked you to do that is that I remember last year I came in from time to time to the estimates committees and I found there had been an agreement to split the time up between the parties, and that is personally satisfactory to me, if that is what this committee wants. What I was concerned about was that, having split the time among the parties, there was no attention paid to the rule of the Legislature—and this is something this committee should concern itself with—that speakers rotate among parties rather than having a long list of speakers who dominate the time.

I came in and found there were four or five members of one party who were on the speakers' list. That's fair enough. But if that happened in the House, those members would have to wait their turn, rotating among the official opposition, now the Liberals, the NDP and the government side. That's all I really wanted to say. I think members of this committee, first of all, should take precedence in speaking; that non-members should take their turn in accordance with whatever the rotation of the party is; and that the time, as closely as it can be done, should normally be shared among the parties.

I certainly accept the fact that the opposition parties should have the bulk of the time and that the minister's time should be counted as part of the government party's time. I would ask this committee to accept the fact that when we ask for the chairman's recognition we be put down in three columns and that you rotate among the columns rather than allowing a number of members of one party to dominate the questioning.

Obviously, there are interjections from time to time and I think you have to handle that as you see fit from time to time. Certainly when I am on a line of questioning, I don't mind interjections, provided it is recognized that I have the floor and that I am allowing somebody else to ask a supplementary.

If that is acceptable to you, Mr. Chairman, I would move that that procedure be adopted.

**Mrs. Campbell:** I would like clarification on the point of supplementary questions. It seems to me that often in committees when someone is pursuing a line of questions, it is more useful if there can be provision for sup-



plementaries at that time; otherwise you lose the thread of it. Subject to that, I heartily endorse what Mr. Handleman has said.

[10:15]

**Mr. Handleman:** That is what I meant, Mrs. Campbell. Certainly, if I am pursuing a line of questioning and I have missed something and some other member thinks of something that should fit in at that point, I certainly wouldn't object—if the chairman recognized a supplementary—provided it was on that point and on the vote that we were talking about.

**Mrs. Campbell:** Exactly.

**Mr. MacBeth:** I have just one question to raise and that is about the minister's time. Are you going on a time basis or an alternating basis, because surely the minister's time would not count? The minister wouldn't count as one of the PC speakers would he, when it came to alternating?

**Mrs. Campbell:** Yes.

**Mr. Handleman:** No. I am just talking about the time that he makes for his introductory remarks which would obviously be out of the government time, if we decide to share on a party basis.

It was in TEIGA's estimates, I think, last year. We had 24 hours and I think it was divided into about 10, 10 and four, or something of that nature: 10 for the official opposition, 10 for the other opposition party, and four for the government side, recognizing that primarily the interest in this is from the opposition.

I don't know whether the Speaker's panel has discussed that or not this year.

**Mr. Chairman:** No. We have asked that recommendations be brought back to us; many of these issues have been raised as questions, and we are expecting a report back.

**Mr. Handleman:** Mr. Chairman, if we simply alternate without any regard to time, I have no objection to that. If there is nobody here to take one party's turn then you go on to the other. They just miss their turn, that's all. There is nothing wrong with that.

**Mr. Chairman:** My only problem with it is that, quite frankly, I find the chairman's time is perhaps better spent listening to the debate and trying to bring the debate together than in acting as a timekeeper. Therefore, I expect that some kind of latitude on inflexibility is given. I wouldn't want to see these estimates as formal as those in the House. Sometimes an awful lot can be

learned. We had some excellent estimates in the Ministry of Correctional Services because we were able to have some flexibility and some agreement between the minister and the two critics. I would rather see that kind of atmosphere than a very legalistic atmosphere.

**Mr. Swart:** Mr. Handleman raises a valid point, but I don't think we can set any firm policy by resolution. There are some speakers who may take 10 times as long as another speaker. You have said yourself that the minister's time should be counted in with the time of the party and this is all going to add problems. All we can do is leave it with the chairman, that he just sort this out as we go along, taking into consideration what has been said; we can't have any formal resolution.

**Mr. Handleman:** Yes, provided we have accepted that we will alternate. In other words, when one person has completed a line of questioning the next questioner would be from the next party on the list and I would hope that the clerk would maintain the three lists. There are three parties in our Legislature, and he would notify you, Mr. Chairman, as to who is the next person.

**Mr. Swart:** May I point out, Mr. Chairman, this can cause a real problem? I understood Mr. Handleman to say earlier that perhaps the opposition parties should have the most time questioning. But if you follow 1, 2, 3, 1, 2, 3, and then the minister obviously has to interject to answer, it is going to mean, in fact, that there is going to be more time for his party. So I think we have to leave it very flexible. I am not trying to be difficult.

**Mr. Handleman:** On that point I don't think I am willing to be flexible on the question of alternation of speakers because that is the rule of the House. The rule of the House is that if a member of one party speaks, another member of that party does not speak if a member of an opposition party is there and wishes to speak. This is why, I think, the division of time was undertaken last year. If it hasn't been undertaken now, I am quite prepared to go without it. But I think the alternation of questioning is quite important. Otherwise, if it is first-come first-served, you may have a long list of people, and if you leave it to the chairman's discretion, I think you put the chairman in a very difficult position of determining that you have had enough time and that it is now time to go on to somebody else.

All I am suggesting is that if you stick to the alternating principle, I have no objection;

and certainly I have no intention of taking a great deal of time. Nevertheless, I don't want to have to wait three days in order to get on the list of speakers—if I put my hand up.

**Mr. Chairman:** Perhaps I can summarize and maybe we can have a compromise that will suit everybody. I will stick to the suggestion that I will accept questions only on the individual item that is under debate, other than on the main vote.

I will try to alternate the speakers—and I suggest that we haven't had a great amount of conflict and problem in this committee before—and I'll use some discretion to make sure each party gets a fair hearing. If one party starts to dominate by speaking too long I'll point out to the person speaking at that time. Is that agreeable?

**Mrs. Campbell:** You will alternate parties?

**Mr. Chairman:** Yes.

**Mrs. Campbell:** I think that's the important issue.

The other thing is that I think we've all felt, ever since I've been in, that we do get some of these visiting cowboys from time to time who walk in and take over and leave. I think if people are going to be here who are not members of the committee—and I recognize their right to speak—they should have to wait their turn.

**Mr. Chairman:** If I might be indiscreet, Mrs. Campbell—and I'm not referring to you—some of the "visiting cowboys" are also members of this committee, so it's not just other members of the House.

**Mrs. Campbell:** No, I wasn't referring to other members of the committee. I was referring to members of the House.

**Mr. Chairman:** The minister also points out that there are also cowgirls.

**Mrs. Campbell:** They don't, as a rule, interrupt the proceedings, Mr. Minister.

**Mr. Chairman:** Can we have the minister's statement now?

**Hon. Mr. Kerr:** Thank you, Mr. Chairman. I'd like to present to you a review of some of the programs and activities contained in the estimates of the Ministry of the Solicitor General during this fiscal year.

The ministry continues to work in the related areas of justice policy, law enforcement and public safety which are of high priority to the government. Our budget expenditures are required for the strong and consistent support of policing in Ontario and for other public safety programs.

The 1978-79 estimates for our ministry request an increase in funds required of just over \$20 million. The bulk of the increase

is needed for the cost of maintaining the Ontario Provincial Police. Some of the major items are salary and employee benefits requirements which account for an extra \$11,500,000. Federal sales taxes of about \$1,500,00 have been added to the operating expenditures, based on the new reciprocal tax agreement with the government of Canada.

A \$2 million provision has been made for the initial costs of a new OPP communication system. This will replace the current system that is over 30 years old, and will offer great benefits to residents of all regions of the province, particularly in northern areas.

The Indian band constable program has been increased by \$1,430,000. Of this amount, \$1 million has been added to change the accounting treatment for this program. The 1978-79 estimates now reflect the total costs of the program and any recoveries from the government of Canada will be deposited as revenue. In the past recoveries were accredited back to the appropriation.

The 1978-79 estimates were compiled with a system using the zero-based concept. This budget process ensures that all existing programs are reviewed just as closely as prepared programs. The emphasis is placed on alternative methods of providing service and on alternative funding levels. In this manner, senior ministry management has attempted to obtain maximum effectiveness of programs for the least possible cost.

As far as new legislation is concerned, members of the committee will be aware that my predecessor last fall introduced Bills 113 and 114 dealing with proposed amendments to the Police Act. As the new minister who inherited this proposed legislation, I have been meeting with representatives of the police community who have some misgivings about our proposal. It is my hope that we can arrive at some common ground so that this important legislation dealing with citizen complaint procedures and police discipline can proceed.

We expect to be introducing in the Legislature very soon a bill to completely revise the Private Investigators and Security Guards Act. The bill would streamline the licensing system and extend coverage to burglar alarm agencies and agents and to security consultants and other groups. The general requirements of the legislation, but not the licensing requirement, would apply to in-house security guards and private investigators. The current act would be extensively updated by this revision.

The Coroners Act will be amended this year to clarify the purpose of an inquest, to

provide for mandatory inquests in the case of accidental deaths of mine workers and to require a mandatory investigation of deaths in institutions under the Developmental Services Act and the Homes for Special Care Act.

Representations have been received from municipal officials as well as from firefighter organizations about amendments to the Fire Departments Act. On some of the issues, such as the size of the bargaining unit, each interested group has a different point of view and it has been difficult to reach a consensus. There is agreement, however, on such matters as bargaining procedures. These proposals will be incorporated in the next amendments to the Fire Departments Act.

The Indian policing services, administered by the Ontario Provincial Police, continues to expand and is proving to be a most worthwhile program. As you know, this program uses both regular OPP officers and Indian special constables to carry out law enforcement duties on reserves all across the province. There are now on staff 84 Indian special constables. They are working on their reserves from Walpole Island in the west to St. Regis on the Quebec border and as far north as remote settlements along the shores of Hudson Bay.

Costs of the Indian policing program are shared between the federal government and the provincial government. Care is taken that the band constables receive the same training as regular OPP constables. Special constables are now included in OPP orientation courses and they continue their training at the Ontario Police College in Aylmer. As well, they attend in-service lectures and any other specialized training their duties make necessary, such as marine skills and supervisory courses.

Indian constables have proved to be most effective in law enforcement work on their reserves and have helped to foster a greater understanding of laws among residents of the reserves. In addition to this, regular force personnel carry out law enforcement duties on Indian reserves where there are yet no band constables. We maintain regular detachments on the Grassy Narrows reserves and subdetachments on the Shoal Lake and Islington reserves.

For these programs, we employ two aircraft to patrol the northeast and northwest areas of the province. Officers visit 22 Indian communities in the far north. They visit the reserves as community police rather than merely going there in answer to complaints. I am glad to be able to say that a combination of Indian special constables and regular fly-in patrols have met with great success

and we intend to continually improve this service.

In the area of law enforcement, the cost of providing policing services continues to increase. The dilemma faced by boards of commissioners of police and chiefs of police is to determine a balance which provides adequate law enforcement and yet, on the other hand, restrains expenditures whenever possible. There is a constant search for opportunities to make more effective use of available resources. We maintain a watching brief on experimental and pilot projects in other jurisdictions so that the results can be analysed and, where applicable, introduced into police procedures.

One of the very real problem areas involves minor traffic offences and parking violations. The volume of cases continue to increase, placing a heavy burden on both police resources and the courts. My ministry has been working with the Ministry of the Attorney General, the Ministry of Transportation and Communications and the Ministry of Consumer and Commercial Relations in an attempt to streamline these procedures and free police officers for more important duties.

Last Thursday the Attorney General (Mr. McMurtry) introduced a bill to provide a code of procedure for provincial offences. The bill, to be entitled the Provincial Offences Act, is really a large-scale revision and update of the Summary Convictions Act. This legislation sets out a complete code of procedure for provincial offences and no longer incorporates parts of the Criminal Code by reference. It forces the person receiving a ticket to choose between certain options with a view to reducing the number of in absentia trials. The bill seeks virtually to eliminate imprisonment for non-payment of fines. Instead, the bill stresses civil remedies and provides for suspension of drivers' licences and motor vehicle permits. The bill seeks to bring many desirable reforms and it is intended, among other things, to streamline the enforcement of minor traffic offences and reduce needless attendance of police officers in court.

[10:30]

An important benefit to the police forces in Ontario is the introduction of a common channel for radio communications. This program is an example of co-operative effort among the government, the regions and the municipalities. To date, approximately \$6.5 million has been spent by the government towards this program, with a contribution of \$3.5 million by the regions and municipalities. This new system will allow police forces to



communicate with each other using standard radio equipment. This capability is essential during joint operations with neighbouring forces in, for example, hostage-taking incidents and other situations where human lives are at stake. Depending on the availability of funds, this program should be completed by 1979.

I referred earlier to a \$2 million provision for a new Ontario Provincial Police communications system. The existing communications system of the OPP is now 30 years old and is inadequate for the needs of the force. Even under normal day-to-day operations, the existing system reduces the effectiveness of the OPP officers and the general level of policing can suffer on occasion.

To correct this situation, the Ontario Provincial Police has designed a new system to meet its future needs. These needs include a radio communications capability in the north, where OPP patrols are regularly flown into areas where no OPP communications exist at present. The importance of the increasing capability of the Indian police on reserves throughout Ontario must also be supported to help them to function adequately.

We consider that all northern residents, native and non-native alike, warrant a greatly improved level of protection by use of more up-to-date police radio capability. Depending upon the availability of funds, the new system will take about five years to introduce throughout the province. Besides upgrading the radio equipment, the system will include such items as walkie-talkies and CB radios. A pilot project on CB radios, organized by the Ministry of Transportation and Communications and the OPP, has demonstrated the usefulness of CB communication between the public and the police force.

In response to recent allegations of racism, I would like to say here that all of us in the Ontario government share society's concern with the suggestion that racism or other police hostility may be directed against the South Asian community or other visible minorities. While a few isolated incidents of racism have been heavily publicized, the day-to-day repeated examples of individual police officers helping and protecting Asians and other minorities is all too often ignored.

Apart from any instances of intentional prejudice and discrimination, there are some examples which illustrate that old habits and a lack of sensitivity can sometimes create problems in our cosmopolitan society. Hopefully, education and training can change attitudes, can make people rea-

lize that discrimination can even be inferred where there is no such intent of bigotry.

The Ministry of the Solicitor General, along with the Ontario Police Commission and the police forces in Ontario, recognized this problem in its early stages. They have taken steps to provide the education and training necessary to help counter racial prejudice and other forms of discrimination. At the Ontario Police College in Aylmer, the importance of human relations is built into each course and each lecture. We will continue to emphasize education and training and the upgrading of courses as necessary.

Nowadays, the Metropolitan Toronto Police Force refers all racial incidents to its special ethnic squad to follow up on. Establishment of this special squad is certainly a step forward as another demonstration of the police efforts to take vigorous action in countering racism.

We can all look to the success of three pilot projects now under way in Toronto by liaison groups on law enforcement and race relations. These projects are in 14 division, 31 division and 51 division. They bring together members of the public, including East Asians, police officers and social workers to try to resolve the problems they share. The groups hold regular meetings for discussion groups and guest speakers, take members out in police cars on area patrols, and show them how officers are trained and perform their duties. They make a particular effort to get involved with young people of various racial origins. I believe there is a very successful program now going on in junior high schools to encourage youngsters to talk with police and to get to know each other better.

As I have indicated, we are attempting at the police college, in Aylmer, to prepare officers for the real world they will face in the streets when they rejoin their respective forces. We are also attempting to ensure that only those able to stand up to the very real stresses and strains of police work in the 1970s are selected as recruits.

We are employing psychological testing, not as a sort of magic wand that will solve all selection problems, but as an additional tool that will assist the interviewer to make better decisions.

Mr. Bill Belyea, a consultant psychologist with the Ontario Police Commission, has been administering the psychological test battery to recruits with the Ontario Provincial Police and a number of municipal forces in the province.

Hamilton-Wentworth, Kingston, Ottawa and Peel regions use the psychological test,

employing consultant psychologists in their own area.

Walter Pitman's task force on human relations made one recommendation regarding psychological testing. The task force suggested that Metro council recommend to the Metro Toronto Police Commission the further study and evaluation of psychological tests to determine racial attitudes of applicants for employment with the Metro Toronto police force. The response of Metro Police Chief Harold Adamson to Mr. Pitman's recommendation was to recommend to the board of commissioners of police the retention of psychologist Dr. Reva Gerstein to further study the needs of the force relating to the recommendation regarding psychological testing.

A year ago, the Human Tissue Gift Act was transferred from the Ministry of Health and assigned to the chief coroner's office. Under the Human Tissue Gift Act, provision is made for donation of human tissue and organs, as well as postmortem gifts for transplants for therapeutic purposes, medical education and scientific research. The organs or tissues in most demand at present are eyes, kidneys, pituitary glands, knee and shoulder joints, bones and heart muscle, as well as livers, lungs and hearts on occasion. In addition, the eight schools of anatomy in the province need approximately 350 whole bodies annually for anatomical dissection.

Since 1975, a consent form under this act has been included in each Ontario driver's licence, which each person may complete if he or she wishes to donate tissues or organs. By 1978, each licensed driver will have the opportunity to give a consent to use his or her whole body or specified parts for the purpose described in the act.

We are glad to say that the public attitude is changing rapidly of late. More and more people are donating their bodies or parts of their bodies for medical purposes. However, many persons who wish to donate want more information and more details on precisely what happens when they sign the consent on the driver's licence or otherwise. So, in addition to the brief information on drivers' licences, the chief coroner's office has made available new consent forms in English and French for people who do not have a driver's licence or for next of kin to complete after death, where the deceased has made no arrangements, one way or the other.

Since the act was transferred to our ministry, we have been informing coroners, pathologists and others of the need for tissues and organs and requesting their help in obtaining consent from the public before

death or from the next of kin after death. We have also asked coroners, pathologists, other physicians and police to search for a consent form in the wallets or purses of deceased persons.

The staff of the chief coroner's office is answering all inquiries either by telephone or in writing. We are convinced that if we can get the message across to the public, showing them the great need for tissues and organs, the shortages of eyes for the blind, pituitary glands for dwarfism and kidneys for persons on permanent kidney treatment could be virtually eliminated in a few years.

The ministry is continuing to provide a series of public awareness programs. These are intended to help the general public better to understand how they can get involved in crime prevention and how they can protect themselves against fire and water dangers. The ministry office provides a media program to support the continuing efforts of the Ontario Provincial Police, the office of the fire marshal and the chief coroner's office. All these agencies are also very effectively involving themselves in community relations as part of their regular programs.

Twelve public service announcements advising citizens of practical methods of fire prevention and crime prevention were distributed to television and radio stations throughout the province. These announcements were also translated into the French language and distributed to appropriate broadcasting stations.

At this time, plans are under way for the erection of a new dormitory at the fire college in Gravenhurst to increase the accommodation from 46 to 100. This expansion program recognizes the importance of training firefighters in the up-to-date technology required to protect their communities.

A little-known fact is that the laboratory at the college is used frequently to assist fire marshal's investigators and fire departments in conducting tests on material and fabrics to determine the point of ignition as well as to determine the flammability of these materials. Frequently the lab runs tests on models of fire scenes to determine the cause of fire and to reveal whether or not a particular fire was started by accident or by a person or persons unknown.

I think we have another constructive year ahead of us, and our programs are described in our estimates proposals. I would now like to open our estimates for discussion by the honourable members.

Mr. Chairman: Thank you. Mr. Lupusella?

**Mr. Lupusella:** I thought the Liberal Party would go first.

**Mr. Chairman:** In the absence of the Liberal critic, you as the NDP critic are first.

**Mr. Lupusella:** Mr. Chairman, I would like to convey my appreciation to the new Solicitor General in relation to new programs which his ministry is going to undertake in the years to come. It seems that the ministry at least has responded to particular problems and concerns which I raised in the previous estimates. Those changes are welcome. Changes in the legislation in relation to particular statutes are also welcome, and I think the public will receive some benefits from those changes.

In the previous estimates I emphasized and focused the minister's attention on particular problems involving the police force as a whole in the province of Ontario, especially the attitude of the police and the Ontario Police College, which is responsible for the kind of training, the kind of policing which we would like to have in Ontario.

Not long ago I had an opportunity to deal with the estimates of the Solicitor General under the direction of the former minister, the member for Humber (Mr. MacBeth). At that time I was quite critical of the lack of leadership and direction in the ministry. It is my strong belief that the same problem continues with the new minister, who has had previous experience with this portfolio.

You are probably aware, Mr. Chairman, that the new minister had this particular assignment in previous years. I cannot criticize his performance at that time because I was not then a member of this House.

His recent performance in the Legislature, though, gives me an opportunity to state clearly that his concept of policing in Ontario is not so very different from that of the previous minister because of the fundamental and philosophical concept under which this government operates. Therefore, I might add that the direction provided by the new minister is not as close to the kind of policing which I and my party would like to see in Ontario, nor to that of the public as well.

To substantiate my allegation, the bitter strike at Fleck Manufacturing Company Limited is a shocking example of a misdirection by the ministry and misuse of the OPP. It is not my intention at the moment to deal with this particular topic, because it deserves further deliberation and analysis of the use of the OPP as a strike-breaking organization at the expense of the taxpayers for this kind of function. Therefore, I will

deal with this objective in the course of the Solicitor General's estimates.

I would also like to know from the minister what he has been doing in relation to the provincial and federal agreement with regard to the band constables. It seems that he raised this particular issue in his opening statement but I was expecting that at least he would make a ministerial statement in the Legislature when this particular agreement was reached between the province of Ontario and the federal government.

If I may, I would like to emphasize the fact that in my 1977 opening statement I raised particular issues of public concern and the then minister did not agree with my point of view. I hope the present minister has had an opportunity to examine my criticism and, if I may, I would like to emphasize the principles which I raised at that point in time because they are of a fundamental importance to myself, my party and the public at large.

[10:45]

Policing in Ontario is an important task which deserves continuous and permanent attention by the minister. It encompasses the impact of the police force and the public and it raises the issue of compatibility which should exist between those two important tangents. I quote:

"The police, at all times, should maintain a relationship to the public. That gives reality to the historic tradition that the police are the public and that the public are the police. The police are the only members of the public who are paid to give the full attention to duties which are incumbent on every citizen in the interests of community welfare."

These inspiring words and the clear principle which they embody are not invented by my fantasy but said in 1829 by Sir Robert Peel, the founder of the British police force. That is the principle on which the British police force is operating while the Ontario police force is summarized by the "to serve and to protect" motto. Under the direction of this ministry and this government, I may add, it does not rate high priority in the daily operation of the police force. The involvement of the OPP officers at the Fleck Manufacturing plant, doesn't reflect the interests of the community at all. The motto should read "to serve and protect whom or what interest."

The task force on policing in Ontario of February 1974 in my opinion accomplished an important goal—that is a clear structure in which a police force should



operate and a clear analysis of principles under which the structure should be based. My conclusion from the task force report is that even though the major recommendations were implemented, the basic understanding of the principles was not reflected in the implementation. What strikes me in that ministry is the implementation of a lot of recommendations suggested by the task force in which actual implementations involved actions by all police forces in the province, yet from a ministry's standpoint, the implementation is completed.

What I don't understand is whether or not the action has been undertaken by each police division within its own internal operation. For example, recommended role 1.1 is, and I quote: "Objectives within each police force be defined in terms of that community's requirements for crime control, protection of life and property, and the maintenance of peace and order."

Recommended role 1.2 is, and I quote: "The reality of police judgement in the application of the law be squarely faced in each police force and that deliberate and continuing steps be taken to ensure that each police officer has the ability to exercise his judgement so as to support the objectives and the priorities of the force."

How can certain principles of those recommendations and others be fully implemented when the paramilitary concept of a police operation still exists in Ontario, and these changes in principles are the primary requirement for better policing? Surely the role of the police in a modern society is an important and a complicated one. We are all aware of that. We are also concerned about new pressures on the police function based on the changes in mores, the sharpening of societal conflict, the isolation and alienation which are very much part of a growing and changing urban society. Nonetheless, we have to accept the principle expressed by the former minister that policemen cannot be the educator or the doctor for the malaise of a modern society.

The fact is that police are faced with those situations and they must be prepared to face them. So the new pressures on the police function must be dealt with through extensive effort in order that future crises won't arise as a result of ministerial and governmental inaction. Therefore, I will never buy past arguments and future positions taken by that ministry, especially in the field of education by policemen when they confront the public.

What I would like to know in particular is the position of this government and this

minister in relation to the ability of Ontario forces to meet the urban challenges that are at present arising and which, if the present trend continues, will worsen in the future. In that task force report it is mentioned that perhaps as much as 80 per cent of an officer's duty is taken up with maintaining order, ensuring the smooth flow of traffic and pedestrians, routine patrol and assisting citizens.

In participating in previous estimates, I clearly indicated the police force is seen by the public as a governmental tax collection agent to penalize the public in the interest of raising revenue, not public service or protection. This principle is indeed an integral part of the direction given by the training course at Aylmer college. I realize police officers should know the statutes at presently existing in order to implement the law. Police officers spend relatively little of their time involved with crime or criminal activities but I think that the public is particularly concerned with criminal activities.

I hope that the minister will place more emphasis on that problem. Considering that even less than 20 per cent of the officer's duty is spent in that particular field, how can the minister justify the position of the government that organized crime and other criminal activities such as white collar crime are under control in the province by comparing those figures?

I would like the minister to reassess the program of crime prevention among the public. I have not seen effective public announcements advising citizens of practical methods of crime and fire prevention on television. What happened to the project "Doing it Wrong"? The effort was made to produce an educational film, but this expenditure is wasted if it is not available to the public at large. Instead of making the film available at OPP detachments for local showings by community service officers only, the minister should ensure that this project and others like "Code 10-78" will reach the public at large; with particular emphasis on showings in schools, which I believe to be the best place to show such material.

Crime reflects the character of a people in present day society. It clearly indicates the failing of values, respect and morality in our social order, and the painful fact is that we don't want to face such reality, as some researchers have indicated.

Crime is a result of human behaviour which is closely attached to the social and economic environment which people live in. The minister, for example, should not be surprised that the high rise of unemployment

seriously weakens the commitment of the individual to the values of the social order and is reflected in societal conflict in which the police inevitably become involved.

Human behaviour in relation to the respect of law is firmly connected to the performance of the police forces in settling such conflicts through the enforcement of the law.

Respect for law is also reflected in the police attitude, as I have mentioned in previous estimates debates, but the public perception of the police force is detrimentally corroding the process of law enforcement in the province. Crime prevention requires the active participation of the public who must perceive law enforcement to be to their benefit. If we bear in mind that police activities are directed towards what the public perceives as the harassment of ordinary law-abiding citizens for minor violations—I emphasize again, really minor violations—not the active pursuit of the real criminals, then we never achieve this goal.

In order to do that it is necessary that the police force is equipped with background information not just related to the implementation of our statutes but also with skilful training capabilities to cope with urgent and strange situations of human behaviour.

The police attitude towards the public should be informative and based on effective human relations, in particular with regard to those citizens who commit minor infractions of the law. The present exposure of illegal RCMP activities raises questions in the public's mind which surely do not support public respect for the police, nor does the recent performance in the OPP's involvement at Fleck Manufacturing Limited, nor certain performances of a municipal force with regard to the daily exposure of some illegalities committed by the constables. These incidents are frequently covered by the media across the province.

Again, performance, attitude and ability in carrying out the daily operations of the regular officer relies on the facilities provided by the Ontario Police College. The concrete impression which I got by visiting the Ontario Police College with the Solicitor General just a few weeks ago is the way in which the officers are learning to maintain high quality uniform law enforcement in the province. Evidence of the paramilitary concept is clearly indicated in the training program itself and the reading material which the officers cover. There is no mention in the course material of subjects related to sociology, psychology and the cultural background of the public, and in particular of

the distinctive ethnic communities presently living in various parts of the province.

Lack of understanding and different social approaches by the officers results in the escalation of conflicts because the officer is taught to approach any public member with suspicion and as a potential criminal, which undermines the respect of the public towards law enforcement in the province and the officers themselves.

Again, it is a question of policies carried out by the Ontario Police College through instruction and training under the direction of this ministry. A paramilitary attitude and discipline are the two components which are creating the basis for the public's suspicion regarding police activities.

Where are the priorities, I would ask the minister and the Attorney General (Mr. McMurtrey), in relation to racial attacks commonly taking place in Metropolitan Toronto and other parts of the province? Why does the Attorney General place more emphasis on violence in hockey instead of co-operating with the Solicitor General in regard to the escalation of racial violence and the solution of such problems? It is directly the responsibility of this government and its various ministries which have not acted on this problem.

Surely, this problem and other subjects mentioned previously cannot be dealt with at Aylmer College if we consider the length of the course itself. Fifteen weeks is too short, considering that 25 per cent of the officers' time is spent on physical activities. I hope the Solicitor General will reconsider the present time constraints and will extend the program within a reasonable period of time.

In my opening statement, Mr. Chairman, I wish to draw the minister's attention to a particular situation which was raised recently through a study released by a Toronto alderman, Alan Sparrow, which involves the Metro police officers. I am making particular reference to the fact that an officer's uniform bears identification only in the form of a number on the officer's hat. In a study of 29 North American cities, including 10 in Canada, Mr. Sparrow discovered Metro police carried the least amount of identification.

Police Chief Harold Adamson seems to be satisfied with the present system. With due respect, I completely disagree with this approach because I am of the opinion that wearing badges bearing their names and numbers on the chest of the uniform improves the social relationship between the police and the public by allowing the public

to address the police officers as a human being, not a uniform with a number. I feel quite strongly about this issue and I am prepared to press the matter further if the minister is unable or unwilling to change the opinion held by Mr. Harold Adamson.

[11:00]

We are all aware in principle that law enforcement should be used by the police officer with discretion and judgement. In a lot of cases those principles are not respected by the police officers in view of the fact that any particular circumstance which arises requiring the involvement of police officers is always treated with a paramilitary attitude. I am making particular reference to the recent incident in which a Mississauga home was hit with tear gas by a police tactical unit, April 22, 1978, while the residents were asleep. The Peel regional police superintendent is in the process of conducting an investigation.

If the Solicitor General will take my criticism into greater consideration, I don't think the public will suffer by the extra power used by the police officers in the performance of their duty. I am particularly interested in the result of this investigation, and I am inviting the Solicitor General to make a public statement in the Legislature when the investigation will be completed or comment now if he knows the result of the investigation.

Brutality complaints are also rising constantly. I am sure the minister had an opportunity to read the stories of internal investigations pursued by different regions in the municipalities into allegations against policemen. What strikes me is the fact that in these particular incidents the regional police force is always called into question. I think it is time the Solicitor General should review practices, structures, methods, and internal directions applied by the regional police forces before the situation deteriorates further.

I am also aware of the fact that a lot of new recommendations came into effect as a result of the task force on policing in Ontario. Did the ministry have an opportunity to carry out its own investigations to the extent of having some feedback if practices and directions used by the police in different regional police forces had been implemented?

Those, Mr. Chairman, are my general concerns about the police force in the province of Ontario. As I stated previously I emphasize the fact that the Ontario Police College is playing an important role in relation to the improvement of policing in the

province of Ontario, and I want to emphasize the problems and the kind of programs which are pursued at the college in my opening statement, because attitude and better policing in the province of Ontario is completely directed to the role which the Ontario Police College is playing in the province.

"No public agency is of greater importance to a community than the police. Usually the police officer is the first point of contact between the citizen and the law. How the police conduct themselves and what they accomplish do much to destroy or create respect for the law; and the increasing complexity of our society, with its urbanization, industrialization, technological improvement, and mobility, has brought greater need of law and efficient police protection. The police, moreover, are in a strategic position to detect the causes of crime and delinquency and to prevent such acts. They are in the 'front line' and their vigour and efficiency largely determines society's reaction to violations of the law."

Using the above statement as my preface, the following comments shall constitute my criticisms, opinions and beliefs regarding the collection of material on the courses and the training offered by the Ontario Police College.

The powers of the Canadian police forces are among the greatest anywhere in the free world. The major reason for this is due to the lack of judicial and legislative restraints and controls placed upon them. For example, in the United States, the monumental Miranda decision of the US Supreme Court requires that all law enforcement officers, upon arresting a person accused of a criminal offence, read that person his/her constitutional rights: to remain silent if desired; that anything said may be used against them later in a court of law; to have legal counsel, or, if they are unable to afford a lawyer, one shall be appointed without charge. This strengthened even further the accused's rights established in the Escobedo and Gideon decisions.

Unfortunately, in Canada the prevailing judicial philosophy and practice was established in the Wray decision, which affirmed the admissibility of illegally obtained evidence. Mr. Arthur Maloney has expressed the view held by many members of the legal profession: "The rule established in Wray amounts to virtual participation by the state in the illegal conduct of a policeman. The state is profiting from its own wrong and contaminating the judicial process thereby . . . As long as R. vs. Wray is the



law in Canada the police and prosecution will be governed solely by the expediences of building the strongest case against the accused. This is not likely to involve much consideration to his rights."

What should also be noted is the precarious and sterile nature of our own bill of rights: "The basic values which impelled the Supreme Court of the United States to act vigorously to protect individual rights are values inherent in the concept of any free society that respects the dignity of its individual citizens. Such values are not unknown in Canada.

"The bill of rights presented Canadian courts with an opportunity to follow the purpose of the Legislature in enumerating general principles of individual freedoms by shaping the law to adapt itself to these fundamental concepts. Parliament passed this legislation with the avowed intention and high hope that it would constitute an effective protection for the accused against illegal encroachments by the state."

However, I think most of us have now come to share and appreciate the concerns expressed by Mr. Emmett Hall, a retired justice of the Canadian Supreme Court and now honorary president of the Canadian Civil Liberties Association: "The effectiveness of the bill of rights depends on the courts which must interpret and enforce it."

How does this affect Canada's police forces in the long run? If we accept and appreciate the fact that our police do indeed have very great powers—as lawyer Eddie Greenspan sees it, "more power than Hydro, slightly less than God's"—then we must also appreciate the concern of Professor Alan Grant, who has stated that "police power today is in danger of outstripping society's mechanisms to control it."

On this cheery note, I will now focus my attention on a discussion of the Ontario Police College at Aylmer.

Upon reviewing the literature concerning the course and the subjects offered by the college, the first thing I found to be most incredible is the ratio of courses per allotted time. If the minister read my comments in previous estimates, I raised the same criticism last year.

For example, in the probationary constables' course, part A, there are 23 subjects to be taken over a 10-week period. In the program booklet, this covers 63 pages of course outlines and objectives. Part B of the course is five weeks in length and covers 17 subjects, spanning 14 pages of course outlines and objectives.

At Aylmer, the total program covers only about 12 months and God only knows what can be learned and retained by a predominantly non-university-level student body. I would not mind this so much save for the fact that, knowing what grades they have, these are the individuals we are to entrust with the capacity to enforce the law over the rest of us.

One criticism that is constantly raised against the police is their paramilitary appearance and attitudes exhibited when they come in contact with the public. The police college literature contains a memo, dated February 8, 1977, from Mr. Glover to all students, and in what follows there is a page entitled: "Instructions: Making of Beds." There can be no doubt to anyone who reads this that these instructions were taken directly from the armed forces.

Further, in the pamphlet on the Ontario Police College it is stated that the location once served as an RCAF training base and in 1962 the province assumed control of the facilities and renovated the building to function as a police training centre. In 1971, the province replaced the old building with the present new complex, officially opened on May 6, 1977. The brochure also points out that a few of the instructors in the physical activities area have a military training experience, which brings me to my next point. Professor Alan Grant, of the faculty of Osgoode Hall Law School, York University, and who himself was a police officer in England, holding all ranks from constable to chief inspector, has pointed out a very serious matter:

"Quite apart from academic courses and applied skills with a substantial human relations content, technical competence in police work can probably best be taught by first-class police practitioners. But there is a considerable though not insurmountable danger in following this course. The recruit is placed at a very formative stage in his career, under the influence of an experienced officer who has great credibility with the recruit and the tutor, therefore, is in a position to use this influence for both good and, almost certainly unintended, evil.

"Fulltime police faculty must be constantly on the lookout for any tendency to impart cynical attitudes and prejudiced value judgments to the recruits. The better the instructor, or at least the more charismatic the instructor, the more likely is the recruit to wish to emulate him. A well-prepared, technically competent instructor will earn respect. He must, therefore, be sure that the

respect is not misplaced by his transferring negative attitudes to his students."

This last point on attitudes is, I feel, very important. The police attitude towards the public and vice versa is a major factor in the operation of law enforcement.

It is interesting to note in the police college data concerning the Vienna convention on consular relations, a foreign national who is arrested, imprisoned, placed in custody pending trial or otherwise detained is to be given more courtesy and rights than is a Canadian citizen in similar circumstances. For example, the right to immediate legal representation and unlimited access and consultation with consular officials.

On the subject of human relations, my review of the police college literature showed that although there are very brief mentions of respect for the citizen's or accused's rights throughout, there are only two outlines that deal with human relations in any detail and these are far too brief and lack, I feel, the required emphasis. They are the articles "Public Relations," by G. H. Turner, University of Western Ontario; and Robert Peel's "Nine Principles of Law Enforcement" and subsequent examples.

[11:15]

Although there are a number of courses on human relations listed in the 1978 police college calendar, they are certainly not as extensive or emphasized as much as the physical, investigative and bureaucratic aspects of police work. To my reading, courses such as those dealing in psychology and sociology are practically non-existent. To overcome this problem, Professor Grant has recommended that the academic community must be prepared to co-operate with senior police management in developing new approaches in police education and training. Since no real dialogue has been established between the police service and the senior people in the academic community, they communicate poorly or not at all. Once established, learning will be a two-way process and academic courses will be enriched by police scholars who will, in turn, profit from the experience.

Probably the greatest liability the police college at Aylmer suffers from in this regard is its isolation, not only from any major cities or towns but, more importantly, its isolation from schemes such as those proposed by Professor Grant. One cannot help but get the impression that what the police are running at Aylmer is a closed-shop operation, not unlike, I might add, that of an armed forces base. If you want our police

to be studying psychology and sociology, disciplines which deal in the study of people, then how could this be effective if we insist on isolating them from people?

A great deal of the course material to be covered by the police students at Aylmer consists of reprinted sections of the provisions of various pieces of legislation. Again, one is impressed by the volume of the material to be covered in the duration of the course.

Mr. Chairman, with those remarks I would like to close my opening statement. We will have a better opportunity to emphasize those principles in the course of the estimates. I will leave it at that.

Mr. Chairman: Mr. Lupusella has spoken from 10:40 to 11:20; and we have noted the time.

Mr. MacBeth: The member spoke only of police. I think he should have said something about the other sectors. Does he have no comments to make on the fire marshal, coroners, forensic sciences?

Mr. Chairman: I think it is up to the critic as to what he chooses to speak on.

Mr. MacBeth: No question. I was just disappointed that he didn't cover some of the other matters.

Mr. Chairman: Mr. Lupusella has noted your disappointment.

I would like to give some opportunity to any one in the Liberal Party, in the absence of the critic, who might care to make a statement on vote 1. Mrs. Campbell, would you care to speak?

Mrs. Campbell: Thank you.

Mr. Chairman: Before you start—and I am sorry for interrupting you, Mrs. Campbell—I have had a request from one of the parties that we adjourn at 12:30 today rather than at the usual one o'clock. Since we try to accommodate caucuses, as we have done and as we did last night, I hope that we can wind down at 12:30 today. Normally on a Wednesday we adjourn at one o'clock.

Mrs. Campbell: I am going to open, I hope, with some positive remarks. While I, too, share a concern for a great many of the difficulties expressed by the NDP critic, I see in what the ministry is doing at least an attempt to meet the problems of racism as they appear in our society, and I congratulate the minister on that particular concern. It is of concern to all of us.

I would like to say, however, that I don't think you win understanding, except by knowing people; and I would hope you would continue to encourage in the police forces the introduction of more persons of

various races. I think that only by working with people and knowing people in that kind of relationship can you really, in the long run, overcome attitudes. Education is important; but I really think that the individual knowledge of a person and the respect that is gained by their working together are the things that, in the final analysis, will overcome these problems.

Speaking of the increase in violence, the work in the drug scene, and the violent crimes, particularly against women, I still implore the minister to try to work out with the Attorney General a different role for the police or, at least the elimination of some of the roles which they have and which they don't perform well and which only bring a lot of criticism to them. I'm speaking about their being used by the provincial courts, of course, particularly in the family division, for the service of various documents. They don't perform this well. In the first place, I think they're reluctant to do it. There ought to be some force which is employed by the courts, or by the justice system, for that purpose, to relieve the trained constable of that responsibility in our society.

One of the things which was said, and with which I heartily agree, is that the public perception of the police is an unfortunate one. We see it in the reluctance of people to become involved in an incident. That is very largely due to the fact, I think, that most members of the public are law abiding, and yet, the ones who come into contact with the police over some traffic misdemeanour or something of that kind feel they are treated with greater indignity than a person who is a known criminal.

We've got to do something to overcome that kind of attitude. I recognize that the police have a duty to perform, but if you're in the courts you will find that so many of the cases dragging through are really traffic cases. The police ought not to be in the position where the public views them as almost a prosecutor on all occasions. This is particularly true when someone feels that he or she has been treated badly by the police and there is no identification; there often is no identification whatsoever.

I am a little concerned with the current attitude of Chief Adamson. When we were working on the Kensington urban renewal scheme, a long time ago now, he was the deputy chief. He met with us and we pointed out that there was a great tendency—and we didn't do a statistical analysis, but I think people were feeling the truth of the situation—in certain areas there was no identification at all. In one case, as I recall—and

I've raised this before—an officer advised me that he had had his badge torn off in some scuffle. I asked him if he had gone home in the meantime, or if he had remained at the scene. His tunic gave no indication whatsoever of anything being torn off at that point in time. It was our conclusion that in certain areas of a city like Toronto, there is a greater tendency not to wear any identification at all than there is in other areas.

At that point in time, Chief Adamson was studying, I believe, some of the identification used in California and other places, and he was very sympathetic to the use of appropriate identification. I really don't understand what has changed his mind. It is absolutely essential that the public know the person with whom they are dealing. Regrettably, this has never been brought into full force and effect, and I think it is high time that it should be done.

Very often people have come to me with some criticism of an event or an occurrence and they could not positively identify the officer because there was no identification. In an occurrence you don't look too closely at a person to be able to make a positive identification. If you wish the police to have the respect of the public, this is one of the areas. It may seem minor, but it is important.

One of the things I am concerned about in the opening statement of the minister is his discussion of the matter of the Indian constables. I am a little concerned that they appear to be set apart from the normal force in the context of his opening remarks. I was at a series of workshops in Sudbury about a week ago, meeting with the native people and trying to understand just how they felt about the laws and about the policing systems.

As I have known for a long time, but it came through even more clearly on this occasion, we have failed completely to understand the culture of our native people. I will give you some examples which were given to me, not only by the native people but by a priest who has worked very closely with them over a period of time. He was explaining that he had a camp where he took boys and that he took some native children. He said that the attitudes were obviously different between the native children and the non-native children in, for instance, the use of equipment.

He was pointing out that to a native child, or to a native person, if a boat were available—just as an example—they wouldn't stop to find out who it belonged to or to make any inquiries; the boat was there and it was



for their use. So they would use it and return it. He said they always returned it. When they came into our society, which is alien to them, I presume that in many cases they tend to follow the same cultural aspects of their lives, and they get into trouble over it.

I don't see in any of this any thrust towards trying to assist an understanding of these very basic differences in an approach to what we would call theft and what they would not see as theft at all. Also, of course, the same applies to the use of firearms. I think it behooves us to take a very strong step forward in attempting not only to teach them our laws but to have a very deep concept of what impact our laws have on their considerations. They have always had a very high standard of their own. In many cases we have taken that away from them and have transformed what was once a very independent people into a role of dependency. I think we have to bear the brunt of that kind of approach to these people.

I am still concerned about the matter of police commissions and who sits on them. As you know, we did take a baby step forward in making it possible not to have a judge sitting on a commission. But it does seem to me, and it will continue to seem to me, that a judge is not an appropriate person to be on a police commission.

[11:30]

I know that we view these things differently, our philosophies are different; but because of the way in which the police commissions function today I am of the opinion that the commission should not have, as part of its commission, a judge, particularly one who has been working closely with police during his career, perhaps as a lawyer and also as a judge. We will continue to press for that reform.

Turning to the whole question of the citizens' review board, I was talking to the same Alderman Sparrow who was referred to earlier and pointed out that in 1968 or 1969, when I was a member of Metro, we had a committee composed of labour, police—I can't think now of all of the people involved—discussing this very problem. I think we've never been able to really understand that it is just as important to the police as it is to the citizens at large that there be citizens very intimately involved with the police process.

When I was a member of council, I made it my business to go out on the graveyard shifts with both the police and the firefighters. It's only by being there, I think, that you understand in depth just what a police officer

or a firefighter is up against, particularly when it's on the graveyard shift. I will tell you that after being with them, I had no desire ever to be a police officer.

It was also at that time that I studied some of the computer uses in the United States. I know we have a very sophisticated computer operation here, but I don't know why we haven't stepped a bit forward in trying to computerize occurrences as they do in some areas of the United States, so that a police officer on a call has some information as to the type of occurrence he's facing. I don't know what the costs would be and I'm perfectly prepared to sit down and discuss them further. But I know it is being done in the United States and I don't see any reason why that wouldn't be an appropriate use of the computer here.

If the minister wants further information on it—I don't like to use trade names but it just happened that those of us on the treasury board of the city did take a course in New York on the use of the computer, both for budgeting purposes and for other purposes. I have to tell you that it was an IBM course but I'm sure that any of the other computer people would be able to give the minister that kind of information.

I believe that we need to have a constant watch over our police, and I agree fully that, in many cases, the training does not appear to be adequate in society as it is today, I'm sure it was probably adequate when we were a small series of communities. But the pressures on police, I have to speak out for because they really face some pretty intolerable situations. They go in blind and they don't know what they're up against. They get a call and that's it.

Another thing that seems to me to be very important is that, as has been said earlier, the police are usually the first at the scene of an accident, for example, and yet it's my experience that the police are not as well equipped to handle any emergency as a firefighter, who is usually second to arrive at an accident scene. If we get through this House the Good Samaritan legislation which we've been asking for for years, if we finally get it enacted into law, I would like to see the police having some skills which they can safely use, safely for themselves more than the public at that point because of the law as it stands today, at least to give some kind of emergency assistance. I think that kind of operation too would make the public feel that they were more helpful in certain situations of that kind. All you have to do is be present at the scene of a fatal accident, for example, where emotions are involved, and when nobody is doing any-

thing people become rather critical, and it really isn't the fault of the police.

I can recall being out with Kesley Merry on the Queen Elizabeth Way at the scene of a fatal accident. We were just cruising around when we got the call. It was on a rainy night and the police were there—the firefighters came shortly—but the victim was lying on the road in the rain and not even covered. There was simply nothing done because there was nothing available. I think this has to stop.

As far as the police are concerned, I've already said that in my view they should be relieved of those duties which are really not conducive to their own image in the public. I thought we were moving in that direction with the Green Hornets. That seemed to be a good step forward, because up until then they were really regarded as revenue producers and prosecutors and not really as people trying to prevent crime. Of course, the prevention of crime is one of the very important features, prevention in any form. We've argued prevention in almost every estimate I've been on, be it social services, be it police or whatever, because that is really the success story of a country, its ability to prevent this kind of thing.

It's interesting that in Toronto it is, in fact, the community cop, certainly in my riding, who has the great respect of the people. They see them as friends and rely on them very heavily for a lot of situations which really are not essentially police situations. This is the kind of cop I think is so vital to a force in an urban setting. Yet, usually when there is any suggestion of cuts, it's either the youth bureau or the community cop who is the one most threatened.

I do feel it is important to have uniformed constables. I don't think there's any question about that. I suppose it's similar to my view that I think you need to have judges in court who are robed; there's something there that is important to the public perception that there has to be some respect for the law. But the uniforms should not be a kind of impersonal image of one kind or another of the person behind the uniform, and I think there are differences so far as that is concerned.

On the question of the training, I have to say that I feel there has been a marked improvement in the attitudes and the ability of the police officer to come to grips with what is a very complex situation in an urban centre. I've raised this before but I can recall that it used to be, and I'm not sure whether it is today, that in the city hall, in the cells, in the place where you had people who were regarded by the police there as

the sort of dregs of society, the police tended to treat everyone as part of that scene. I mean, if it were a man coming into that vicinity he was probably regarded as a pimp, and certainly any woman in the vicinity was pretty well lumped as a prostitute, regardless of why she was in the building.

These were all retired constables who had undoubtedly served, but were really the last people who should have been involved in those areas where they would meet the public going through the city hall.

I'm not sure just who is the best person to train police officers. But I am of the opinion that we really have to respect the fact that as the complexities in our society grow, so does the need for police officers to have a very sophisticated type of training so they can, indeed, meet the problems of our society.

I will be commenting further, if I am available from my rent review obligations, on other aspects of the police and enforcement.

I would like to say a word or two about two other matters. With reference to fire-fighting and the fire college, I hope that the minister will enlarge upon the relationship between that college and the college in Toronto which is training firefighters in a very sophisticated fashion, as it's required for this kind of scene.

More and more you're seeing, and the minister's quite aware of seeing, the problems of fires where you have danger of very massive types of pollution of one kind or another and very hazardous conditions. We were looking at the matter of the Oakville fire. It was interesting to me that the statement was made that there might be ongoing danger from the fumes. And yet when I looked at those who were mucking about after the fire was over while the fumes were apparently still regarded as possibly hazardous, I didn't see any of them masked. I wonder what kind of instructions there are for either police or firefighters in such a situation, because certainly one would have thought they would be suitably protected in that kind of a scene; and yet, from what I saw on the television, they were obviously not, and they were still actively engaged at that point.

[11:45]

In the matter of the firefighters, I wonder whether in your opening discussions there has been any attempt to assist them in some of the provisions relating to their pensions. Certainly in the city of Toronto, as you're quite aware, there are two pension funds, as I understand it; I think they're still segregated

and apart. It always seemed to me a little strange that they were unable in their particular case to negotiate a better opportunity with the province for the use and the investment of those funds. I always understood the provincial interest, a very real interest, in pension funds; but I did wonder why, in the long run, if both the city and the firefighters were amenable, there couldn't have been a greater autonomy in that particular area.

On the question of the Human Tissue Gift Act, and the fact that this has now come over into Solicitor General's ministry, I want to say that, again, I find it within my soul to congratulate the minister on this particular operation. I think we have all known of cases where the need was very important, particularly for the use of pituitary glands, and the children who have been so badly affected because of the lack of such glands in the matter of dwarfism. Your program is one which I hope is going to have a very fine effect on the community in the saving of lives and allowing people to live rather than exist, as some of them have had to do in the past. Again, I commend the minister on what I think is an active and forward thrust in this area.

There is another point that I would like to make with reference to police. I'm sorry I'm going back to that subject, but when I spoke about things they do badly, I'm also concerned about the whole area of bylaw enforcement.

It seems to me that the province and the municipalities ought to somehow resolve the problems, particularly of noise pollution, in an urban centre. As you're aware, the medical profession is quite clearly identifying noise pollution, or the effects of it, in some of our very serious acting-out as community people. And yet it's the one area where the police seem to have almost no effect. I wonder if the solutions to these problems really are to close down the operation rather than to find some way to ensure that the noise emanating from these various discotheques and other places is kept within some kind of bounds. If, in fact, you could see that there are trained people, trained only in those areas, who could enforce these bylaws, it seems to me again the police would not suffer from what the public perceives as being very ineffectual in this area.

**Hon. Mr. Kerr:** One place in your particular riding, Mrs. Campbell, is really bad, and that's where I live from time to time.

**Mrs. Campbell:** Are you creating this problem?

**Hon. Mr. Kerr:** No. This is at the corner of Isabella and Church; there's a lot of hassling

that goes on there at 3 or 4 o'clock in the morning. I think the police can do something about that.

**Mrs. Campbell:** I'm glad you do feel that way, because I think Alderman Sparrow and I would be very grateful if something could be done. We have certainly fought the battle for a long time. There are also problems in the St. Joseph's area and so on.

**Hon. Mr. Kerr:** I was thinking about writing you, I get your literature under my door all the time.

**Mrs. Campbell:** Well, why don't you? You haven't had any literature from me for quite a while now.

**Hon. Mr. Kerr:** You have good canvassers.

**Mrs. Campbell:** If you want to write to your member, then I'll write to my minister, and perhaps between us we can resolve the problem. I really think there is something seriously wrong in expecting police officers to handle that kind of a situation when really they have so many more serious things they ought to be looking at; serious from the point of view of crime, not serious from the point of view of the effect on the public of this kind of ongoing situation.

The other thing I think all of us have to be concerned about is that we recognize the more you erode police authority, the more difficult it is for them and many of them become quite disheartened. I think we have to look at that and think about it very carefully. It is one thing when you are dealing with a criminal element, with organized crime. I really have no sympathy whatsoever with going too light on that kind of an offence, particularly in the drug field, especially where in the past—and the minister hasn't answered the question I put to him in the House—children were used in this trafficking. I am wondering if it is starting up again, and the minister was to look into it.

From my experience, I really would like to see an increase in the number of police officers who are community-oriented and youth-oriented. There is where your prevention can start. I can remember many cases that were brought to the court by the youth bureau. I had one case, one of my first, brought by a constable who was not trained in the youth field.

I really couldn't believe the difference in the approach. The allegation in that particular case was one which amounted to a sexual assault—the child, as I recall, was about nine years of age—and a trained youth bureau officer would have been able to tell the difference between curiosity and an assault. This is just the kind of thing that is



so important to recognize in a community.

I don't know what the minister can do in trying to prevail upon a municipality such as Metro, but it seems to me that by his example, in his own force, he might at least do something to assist in bringing that concept more generally across this province.

Mr. Chairman, I will conclude on that point and hope to be able to get into the estimates proper.

Mr. Chairman: Mrs. Campbell has spoken for 38 minutes, which is two minutes less than Mr. Lupusella. So I think we are pretty well even at the moment. Mr. Handleman has asked to comment briefly on the vote—

Mr. Handleman: Yes, just on the vote, Mr. Chairman.

Mr. Chairman: —and the minister has agreed to a short comment. He does have to make his concluding remarks, of course.

Mr. Handleman: And I won't be anywhere near as long as the two previous speakers, Mr. Chairman.

I just want to point out that both of the previous speakers appear to have brought what I consider to be a Metro Toronto perception to the police forces of this province, and I think I should point out that this is not a typical perception in the province as a whole. I can't speak for Metro Toronto, and I have to accept their assessment; however, I come from an area that is served by five different police forces. I want to say that the respect in which we hold all of those forces is unequivocal. It's not unanimous—

Mr. Ziemba: Not the RCMP, though.

Mr. Handleman: The RCMP as well. We have the RCMP, the Ontario Provincial Police, the Ottawa city police the Nepean police and the Gloucester police. I can tell you that any time any suggestion is made for the amalgamation of those forces, there is a public outcry. That is because we do respect our police forces; and among our young people there is a great deal of affection for the police forces.

I must say that the programs carried out in our municipality tend to be of the kind that Mrs. Campbell said were community types of programs, and I think this is quite obviously the source of our satisfaction. We do have things like crime prevention in terms of identification programs for materials. We have a great program of safety in the schools where our young people learn to respect and to like our police forces. We have block parent programs which are promoted by the police forces. Our youth services are excellent.

It is quite obvious that those people who come in contact with the police force in the exercise of their duties are not always enamoured of the police force. But we always have to keep in perspective that an exceptionally small percentage of our public comes into contact with the police forces. Every so often we are stopped by a policeman in the exercise of his responsibilities and asked why we are doing certain things. I think under those circumstances those law-abiding people will co-operate. They may resent being stopped on their way to wherever they are going, but they do co-operate.

I just don't accept that our police forces are disliked or suspected and that we require radical change. Certainly there is no perfection in any service of this nature, and I suppose it's motherhood to talk about para-police forces the same as it is motherhood to talk about paraprofessionals in all fields but, obviously if you can have less highly trained people performing certain mundane duties, they should be used wherever possible. The Green Hornets, which Mrs. Campbell mentioned, have been emulated across the province and are doing an excellent job in this respect. Bylaw enforcement is another unpopular duty that we impose on our policemen.

I think you have to recall that it is the legislators in this legislative mill who continually pass laws that require enforcement. If they are not enforced, then the kind of disrespect for the law, which Mr. Lupusella mentioned, does emerge. Somehow we have to find that happy medium of stopping to pass law after law and then requiring our law enforcement agencies to go out and be unpopular enforcement people, carrying out our will. I think this is one thing we tend to forget.

The question of racism is constantly laid at the feet of the police. I just want to point out that racism has been with us for many years, long before the visible minorities appeared in this province. I don't think the police can be given the full responsibility of dealing with racism. There is no question that many of its manifestations require police intervention; in terms of vandalism, in terms of physical violence, there is no question whatsoever that the police have a role to play. But to expect our police to solve a problem which has been with us for generations is really asking too much of them.

I certainly want to hear more about this when we get to the police commission item. It is an emerging problem in the area I come from, and it so far has manifested itself primarily in vandalism, which I think should

be stopped before it becomes physical violence in any great measure.

[12:00]

I would like to hear from the minister, if he can bring us a status report and progress report, on where we sit in terms of gun control. I think it is something we occupy ourselves with from time to time and put on the back burner because it becomes a matter of some controversy.

The other thing I would like, if possible, is for the minister to bring us up to date on is what progress we have made in the integration of fire prevention and inspection services in the fire prevention field. One of the complaints of many people in this province is that inspector after inspector follows on the other's heels as they come into an establishment. You have the medical officer, the board of health, the local fire department, the liquor inspector, the tourism inspector. All of these people presumably are interested in fire prevention and inspection. In terms of our restraint program perhaps we could have one inspector doing that job rather than the series of them, each with its own small responsibility.

I would like to say that every task force report on policing recommends, of course, the integration of police forces in an area. I have expressed on behalf of my constituents our pride in our police force—our insistence almost that they maintain their identity. I believe the situation in Ottawa-Carleton area is a good example of how a number of different police forces can co-operate without having to lose their identity as individual and community police forces. So I make that pitch to you now. I will do it later, under the police commission probably, in more detail.

With that, Mr. Chairman, I conclude my remarks and give the minister the rest of the time to answer.

**Hon. Mr. Kerr:** The member for Dovercourt covered a number of items. As expected he mentioned the situation at the Fleck plant in Centralia. It is really not necessary for me to repeat again that all the police are doing is upholding the law. I realize that never seems to be a satisfactory answer. Certainly the police themselves didn't appreciate the fact that they are in the middle in many of these strike situations and labour and management disputes.

As you know there were problems right from the start at that particular plant. It is a situation where a union is being organized, or a new bargaining agency for the workers at that plant was being put into effect; there was, as I say, dispute and controversy right from the start.

The police were criticized severely. One of the early incidents was where the press and the pundits generally claim that they were abdicating their duty by not protecting persons and property. It was the one incident when there were a number of workers from outside the area who attended at the picket line and there was some damage and some injuries.

It is very easy to second guess the police as to what their role should be and how many people they should have at the scene to maintain peace and order. The fact is the law has certain provisions in respect to picketing and to the actions of the police, the rights and duties of citizens in respect of picket lines and plants that are on strike. If the law isn't proper, if the law is inadequate, then it should be changed.

I don't want to repeat what the code may say or what the labour laws of this province are at the present time. But, as I say, the main role of the police is to protect persons and property, maintain peace and order on a picket line, and make sure that there isn't trouble, altercations or whatever you want to call them; that there aren't incidents of assault between strikers and non-strikers, and things of that nature.

As I say, the police do not relish their role at that particular plant and what they have to do, but I think we should probably give some credit to the fact that there hasn't been the type of physical injury or property damage that could have developed had there not been some definite presence there, particularly when there were threats of great violence on certain occasions.

My only comment is that I hope the strike will be settled very soon—immediately—that the dispute which is going on between labour and management will be resolved so that there's no further need for police presence there.

The member for Dovercourt asked a question about band constables and mentioned the fact that a statement should be made in the Legislature. To bring everyone up to date, I have signed an agreement with the federal government to cover the period from the end of March, 1978, for three years, providing certain terms and conditions in respect to Indian policing. It is really a continuation of the previous three-year agreement, although the financial terms are a little different. Our share is a little more than it was in 1975. However, the agreement is extended somewhat to include certain fringe benefits, pension benefits, and things of that nature that we can go into in a little more detail when we get to that particular vote.

It's just a matter of the minister—I believe it's Mr. Faulkner—putting his signature to it. I have a letter from him indicating he is in favour of the terms. It's just a matter of getting back a signed copy from that ministry.

The member for Dovercourt went into a great deal of the philosophy of policing, quoting Sir Robert Peel, and the role of the police, particularly as identified by the task force on policing. He dealt quite extensively with the courses at Aylmer; the role of, particularly, the urban cop shall we say; the urban challenges in the future, what the role should be; the fact that the emphasis in training seems to be on the Criminal Code and criminal activity when, at the same time, only about 20 per cent of police time is involved with criminal activity rather than with many of the other, rather more community, concerns in which they are involved.

As the honourable member said, we visited Aylmer together. We had sort of a quick tour; we were only there, I suppose, about two hours, but we did see examples of the type of training, the type of facilities, they have. I might say that the member for Dovercourt is not a bad shot. He hit the bull's eye at least three times out of 10.

**Mrs. Campbell:** Where did you get your experience?

**Mr. Lupusella:** At Aylmer College, with 10 minutes of training. I had a competition with the minister, who is really an expert. That's why I didn't win.

**Hon. Mr. Kerr:** In any event, I have had a chance, as he has, to look through some of the literature. There is no question that it concentrates on and emphasizes the Criminal Code and other statutes which would apply to policing, to a career in policing. The old facility, as the member said, consisted of old hangars and facilities which were left over from an old air force base but the new facility is quite elaborate and, frankly, even the recruits seem to be of a more modern type. There are many more policewomen, of course, than were there four or five years ago.

However, having visited the new facility and taking the opportunity to sit in on some of the classes, and being informed by some of the staff, I couldn't help but feel there was a great improvement in the course at Aylmer. I have no great proof that it is so, but I think that the type of recruit who is there is better educated, better motivated; they are from all walks of life. Some of them have one or two years of university, some of them have degrees; and some, of course, just meet the basic requirement of grade 12. But they seem to have

a different attitude. It seems to me that they will make better policemen than I have seen before; and I am sure that the type of training and facilities have a lot to do with that.

The isolation, I suppose, is because the college was there in the first place. Who knows, maybe the member from St. Thomas threatened to resign if they moved it to Barrie, or Toronto, or Hamilton or some other place. There is no question that it is a very important facility in that particular riding.

But seriously, I don't think there's really that much the matter with the fact that it is in a rural community. The 15-week course is a pretty intense course. There is no question that it is a full-time course. I think the fact that the three of us left there at five o'clock on a Friday afternoon and most of those classrooms were busy indicates that they don't waste their time during that 15-week period.

I know that there are some courses, and certainly some lectures in sociology and psychology. Maybe there aren't enough, I don't know. But we must remember that we are dealing with recruits, with probationary officers who are at the very start of their career. Whether there is too much of a paramilitary atmosphere or not, I am not prepared to say. I don't think 25 per cent of their course on physical education is necessarily too much in view of the role of a police constable. We saw the pool, and I was surprised when I was told that, believe it or not, 80 per cent of the police recruits who come there can't swim. I didn't imagine it would be that high. Of course, that's a pretty essential attribute for many police officers.

The type of training and the equipment they have is so much better now that I hope—and you can't say from two hours of observation—but I hope that the type of attitude that the member for Dovercourt feels is essential, and also the member for St. George, is inculcated at that school. You can't do much, as you say, in 15 weeks. However, this is only their recruit course; there are refresher courses and they continue with courses when they are with the major metropolitan forces in the province, and certainly with the OPP. Toronto, as you know, has a school as well; and it's only recently that the Metro force has recognized Aylmer as a competent and efficient course for recruits.

[12:15]

So, hopefully, if we can inculcate those attitudes that the members have been talking about, particularly among those constables who will be going back to urban or



metro forces such as Toronto, Hamilton and Windsor, they can take advantage of more of the sociology and psychology, and just human relations training that is available there.

We talk about the harassment of citizens. I don't think there's any racism or necessarily any prejudice or discrimination in some of the attitudes that we run up against with police officers. To be very frank, if a WASP police officer stops me on the highway and I have done something stupid, whether it's an illegal left turn or gone through a stoplight or something, I can understand their reaction, because they've seen accidents and serious injury result from that type of act. They're emotionally involved; particularly if there is any kind of a chase involved, they react. They come up to your car door and they ask you for your permit, your ownership, and they don't feel like being very polite or conciliatory. They are annoyed and they show it. I think when this happens with some of our new Canadians—and the same thing will happen with some of our new Canadians—there's a tendency to feel that there is some prejudice there, or there is some discrimination there, when in fact the police are just acting in the normal way. It was the driving act that annoyed them. It was the fact you just avoided an accident or could have been involved in a serious accident because of some breach—it could have been a minor breach—that makes them react in that way.

But in view of the cosmopolitan development and changes in this city, there has to be more control and discipline on behalf of the police officer; they have to realize that I would react to that attitude differently from somebody who has just come to this land and who is a new citizen. And I think that is something the new Canadian must realize—that the reaction can be that way. It is, in fact, not some form of discrimination or prejudice. As the member for St. George said, it's because of certain frustrations that develop from being on duty and seeing the consequences of such action. So the reaction is nothing more, in my opinion, than a reaction to a situation that could have been serious if other circumstances had some play in it.

You used the phrase that the constable approaches each member of the public as a potential criminal. Again, that is the appearance that they can give, when really, things might have been a little different. The role of the police, or the attitude of the police, or the reputation of the police, in some of the European countries or Asian countries is

quite different, I think, from that in Canada. For example, I think there is more respect in Ontario than in many European countries for the police force generally, for the work of the police. That's why we probably don't make a point of arguing too much with a police officer, or getting into a shouting match, or disputing what he said happened. We know we may see him in court or we may not.

Certainly with the metropolitan forces, with the development of cosmopolitan communities with more and more new Canadians settling here, not only does our training have to emphasize that more but the attitude of the police officers must be reflected in that. There is no question about that.

**Mr. Ziemba:** Then hire more ethnics.

**Hon. Mr. Kerr:** I will get to that a little later. The record of the Metro force isn't that bad—

Interjection.

**Hon. Mr. Kerr:** Well, we can get to that too. I don't believe we should have that height regulation, I think it's ludicrous. As you know, we amended the Police Act a couple of years ago to do away with height and weight requirements and I think that should be a general policy in the province.

**Mr. Chairman:** If I could ask the members to refrain from interjecting. They will have plenty of opportunities.

**Mr. Ziemba:** They are constructive interjections.

**Mr. Chairman:** I am sure the points you are making are extremely valid and that all members want to pay attention to them, because they are not paying attention to what the minister is saying. There are a couple who are talking.

Interjections.

**Hon. Mr. Kerr:** They're probably all Tories, too.

**Mr. Chairman:** If you would listen to him, I am sure he would appreciate it.

**Hon. Mr. Kerr:** You made reference that the Attorney General should emphasize concern about racial attacks more than violence in hockey. Of course, if you had sat in on that last game in Toronto, you can see why he is concerned over hockey.

But anyway, to be serious for a minute. You may be aware of the meeting we had with the South Asian community just a few weeks ago; it was a very successful meeting. I realize it was with just one community in the city, but the discussion that went on there, the concerns that were put to about five

ministers and the Premier (Mr. Davis), were important to us. At the same time, for just meeting with them and having that forum, the appreciation was surprising. It is a simple thing to have a luncheon meeting, but the appreciation by that community was expressed over and over again. Of course, the whole gambit of citizenship was dealt with, as well as policing. I think there should be more of that with other communities in the metropolitan area.

We talked about identification, the Sparrow committee—the member for St. George also mentioned that. I have asked for opinions from Harold Adamson, from the police commission and from the commissioner of the OPP with respect to that report. I can't help but agree with most of the remarks that were made here today. I think there should be some form of identification.

I realize that when a person asks a police officer his name and number in most cases it will be given, but the fact that he has to ask may indicate to that police officer that the citizen is saying, "I'm going to deal with you in some way," or, "I will report you to your superior." I think it is a very simple thing to have a name or a number, some adequate type of identification. I don't really feel it should even be an issue.

**Mr. Chairman:** If you're going to be consistent with the Ministry of Transport, maybe he should have his picture on his uniform as well.

**Mrs. Campbell:** How can you interrupt when you won't let anybody else?

**An hon. member:** He's a good chairman.

**Hon. Mr. Kerr:** The member for Dovercourt emphasized over and over again the bill of rights and referred to the Miranda decision in the States; he said our forces are too powerful; he again went back to Aylmer, where he felt the courses should be much longer, with more emphasis on sociology and psychology; more, shall we say, lay instructors rather than former military people or police officers. The only

thing I have to say there, agreeing with some of what he says, is that I think policing in this province has been generally successful.

The member for Carleton mentioned the fact that we've been emphasizing Metro. I think we've probably got police forces in this province that are second to none and we've been emphasizing that over and over again. There has to be continuous change and continuous improvement. I think the courses that are given at Aylmer will reflect that. It would probably start there. As I say, I see a great deal of improvement even in the last three or four years down there in the type of instructors and in the type of courses.

I don't know if there's anything very bad about the sort of paramilitary emphasis. I think that's still pretty much the case in Britain, for example, and they've got a pretty good police force over there. Maybe we've been watching a little too much television, I don't know, but I wouldn't want to go completely the route that some of the US forces have taken. Certainly you can have too much paramilitary atmosphere in dealing with certain types of organized crime, certain criminal activities such as in drugs distribution, for example, but I think that for new recruits, certainly in the effort to instil a certain amount of discipline and respect, a certain amount of paramilitary type of training is necessary, as long as at the same time you have certain humanitarian instincts and training right from the start, from the time they become probationary officers.

The member for St. George mentioned—

**Mr. Chairman:** I wonder if the minister would like to give his comments on the member for St. George's opening remarks at our next session, it being 12:30, and we will remain on that vote. I have on my speakers' list, on the first vote, Mr. Ziembra and Mr. MacBeth. We will be meeting tomorrow afternoon, but the next time that we will be doing the Solicitor General's estimates will be next Wednesday.

The committee adjourned at 12:30 p.m.

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## CONTENTS

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WEDNESDAY, MAY 3, 1978

Opening statements: Mr. Kerr, Mr. Lupusella, Mrs. Campbell .....	J-5
Adjournment .....	J-24

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## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
Handleman, S. B. (Carleton PC)  
Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
Lupusella, A. (Dovercourt NDP)  
MacBeth, J. P. (Humber PC)  
Philip, E.; Chairman (Etobicoke NDP)  
Swart, M. (Welland-Thorold NDP)  
Ziemba, E. (High Park-Swansea NDP)





No. J-2

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# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General

**Second Session, 31st Parliament**

Wednesday, May 10, 1978

Speaker: Honourable John E. Stokes  
Clerk: Roderick Lewis, QC

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## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. Phone 965-2159.

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# LEGISLATURE OF ONTARIO

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WEDNESDAY, MAY 10, 1978

The committee met at 10:05 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

On vote 1601, ministry administration program; main office:

**Mr. Chairman:** I see a quorum. The minister was to complete his comments to Mrs. Campbell who, I am informed, is not here. Perhaps the minister will complete his comments and she can read them in Hansard.

**Hon. Mr. Kerr:** Mrs. Campbell raised a number of points during her remarks; and some were raised by Mr. Lupusella. She mentioned racism and wanted to congratulate the police in continuing their efforts to reduce racism. She emphasized, again, the importance of the police getting to know the community in which they serve. She mentioned the Kensington scheme that Chief Adamson was involved in a year or so ago and emphasized that that type of activity was very helpful in the community. It helped to overcome any suspicion or concern about the police and brought about efforts to get to know them better, to trust them more.

I might mention other programs, involving the police and various community projects, for the particular purpose of enhancing citizen-police relationships. I mentioned foot patrol which takes place in two cities, Toronto and Ottawa. This is usually employed in downtown areas of high pedestrian density. Again, this focuses on promoting emphasis on an intimate knowledge of problems in the area and of the people who frequent it.

Again, in Toronto we have a community service officer. This involves a liaison role between regular patrol and all members of the community, individuals and groups. We have the ethnic squad officers in Metro who immerse themselves in their assigned ethnic communities. Work within an ethnic community includes advising editors of ethnic newspapers on police powers and limitations, speaking at schools and group meetings and being available for more personalized police duties.

In 1976, the Metro police established a liaison group on law enforcement and race

relations. This group has now set up pilot committees in three different police divisions. I mentioned that in my opening remarks. The purpose of the committees is to determine the concerns of visible minorities around policing issues and to assess ways of promoting effective communication between police and visible minorities.

Other examples of police and community projects include the Neighbourhood Watch, the Block Parents program, Checkmate, crisis intervention, Operation Identification—this is to discourage break-ins and help return stolen property, and involves the community in crime prevention, in how to minimize loss from break-ins and burglaries. Team policing of course, is something that is done in various communities all across the province and we are promoting it more and more as a result of some studies that have been undertaken in that area.

These are some of the examples of the things that Mrs. Campbell mentioned she felt there should be more of it. She also mentioned the idea of police serving documents, particularly in the family court area. She said they don't want the job, and I know that is true. There's no reason why we can't have process servers and make sure that police are assigned to policing duties. The Provincial Offences Act, as you know, tends to streamline this whole process and I would assume that sooner or later it would also apply to the family court area.

She mentioned Indian constables and her concern that we seem to be setting them apart, that the whole band constable program is something special and different, where we should be sort of emphasizing or promoting assimilation. She gave the example of the importance of understanding the culture of the native people. I think the important thing to realize is that this is something that is constitutionally and traditionally the responsibility of the federal government.

However, because the federal government really wasn't doing the job very well or considering it as important as it should be, and because policing generally in the province is a provincial responsibility, there is now the arrangement between the federal and provincial governments for Indian policing



and band constables, for the training of police constables, the payment, the providing of equipment, the fringe benefits, everything involved in training, in perusing and assessing applications, and placing native men and women in a police force back on their own reservations or in the area of their reservations.

[10:15]

There may be some emphasis to set them apart from the point of view that they are different because of the divided responsibility and because of an agreement between the two levels of government. I might say, however, that the native police themselves take some pride in their own uniqueness to some extent—their shoulder badges identify the different reservations and the actual bands in which they are serving—and the role they play in respect to the OPP generally, the fly-in patrols and things of that nature. I suppose the fact that they now are probably some of the best-paid people on the reservation indicates they are very proud and happy in their role.

I expect the band constable program will continue to flourish and expand. Certainly in its initial stages it has been very beneficial in maintaining peace and order on the reservations, and, of course, I think it's not necessary for me to say how valuable it is to have a native constable enforcing bylaws and the laws generally on reservations.

Mrs. Campbell mentioned police commissions and the fact that she doesn't feel judges should be on police commissions. I think she's aware now that the proposed new Metro bill removes the mandatory requirement for members of the judiciary on police commissions. Bill 113, which was introduced last fall, also eliminates the mandatory provision for judges on police commissions.

Again, Mrs. Campbell talked about the Good Samaritan bill and the necessity of promoting neighbourhood or community relations with the police, and she mentioned the team policing and the youth bureau. She said we should do everything possible to develop respect for the law. She felt there was a marked improvement in police training and attitudes generally.

She mentioned the Ontario Fire College and the relationship between the college and the fire training program that goes on in Toronto, for example. I think it's important to remember that the Ontario Fire College is a residential facility which provides an advanced education program for fire department officers and potential officers from all the fire departments across the province. The Toronto Fire Academy is a training facility

designed for the Toronto department; it is primarily intended for teaching fire ground skills. So there is very little duplication and certainly no conflict between the two establishments.

The Ontario Fire College offers three 15-week fire protection courses in addition to seminars for police chiefs and fire prevention officers. Many of the municipal fire departments have their own training facilities as well, and Toronto happens to have the biggest and certainly one of the best in the province.

Regarding the equipment that firemen have, she referred to the Oakville fire, which was quite a large conflagration. She said that in any pictures she saw, or television coverage of that fire, she didn't notice any firemen wearing masks. The general instructions that go to the firemen from the chief are that they take all their equipment with them, regardless of the call. In most cases you can appreciate they don't know how a fire will develop or how serious it will become. They don't always necessarily know what produce, chemicals or material may be involved in a fire. So they have their respirators, masks, coat, gloves, hats and all the sophisticated equipment that is available to firemen. Usually, that stays right on the truck.

They have to use a certain amount of discretion on their own when they arrive at a scene. In the Oakville situation when they pinpointed the fire they were aware of the material in that warehouse—the type of goods that were stored there. I understand that upon checking this out, the firemen who were in the immediate area did wear masks. So the equipment is available to them.

Mrs. Campbell mentioned the Human Tissue Gift Act and the importance of the new provisions of that act; the importance of providing organs and glands for transplant. She complimented the ministry. All I want to say is that I should compliment my predecessor, who got this program going last year.

**An hon. member:** Who was that, do you know?

**Hon. Mr. Kerr:** I think it was John Yaremko, wasn't it? No, no.

**An hon. member:** That was before his time.

**Hon. Mr. Kerr:** John MacBeth, QC. As Mrs. Campbell indicated, that is a successful program. The banking of these organs, pituitary glands for example, has been successful particularly in recent months. There is not a shortage of supply. Hopefully, as a result of our campaign, the provision for the heirs, next of kin, for the deceased to donate—all

of these new provisions have helped very much.

That is pretty well the main thrust of Mrs. Campbell's remarks. The member for Carleton (Mr. Handleman) said we were talking too much about Metro forces and we should talk about events out there in the great province; we should be giving a provincial perception of what is going on. He mentioned there are too many laws and too much pressure on the police these days. He also mentioned that because of growing urban areas this involves a certain amount of racism, vandalism. He mentioned the Mayo report. Of course, the hon. member and I disagree about the regionalization of the Ottawa police force—

**Mr. Handleman:** But I won.

**Hon. Mr. Kerr:** —but it looks like he won. It looks like opinions crossed party lines on that one.

The honourable member also mentioned gun control. As you may know, this Bill C-51 came into effect last January 1. However, the provisions in respect to requiring acquisition certificates was postponed one year, just from the point of view of logistics and getting it set up and getting the provinces to set up their programs to handle this new legislation. It was felt better to postpone it for a year.

In the meantime, certain provisions of the bill still came into effect last January that involved increased controls on the acquisition of restricted weapons and fully automatic rifles. It provided new categories of restricted and prohibited weapons, penalties for unsafe handling and storage of firearms, stiffer penalties for the criminal misuse of firearms, new police powers to search for and seize firearms in situations where there is an immediate danger to those involved and legislation to prohibit ownership and use of firearms by dangerous persons.

The main part of this legislation, which is the acquisition permit, comes into effect on January 1, 1979. A firearms acquisition certificate will be issued only to persons with no recent record of criminal violence or acute mental instability which would make it unsafe for them to own a firearm. That's going to be hard to administer, I would think. Also to come into effect next January is a system to inspect and license all dealers in firearms and ammunition. Dealers will be required to store firearms and ammunition securely, maintain inventories and record transactions.

The director of the registration branch of the OPP has been designated as the chief provincial firearms officer here. He's going to be responsible for the administration of that

legislation and for the overall supervision, co-ordination and administration of the gun control program in Ontario.

I think that basically deals with the remarks that were raised on the opening day.

**Mr. Handleman:** There was a point I raised last week about the situation of fire inspection and fire prevention services not only among different jurisdictions, but different branches of that jurisdiction. I mentioned, for example, in a licensed tourist facility as many as four or five inspectors could all be inspecting for fire prevention or fire prevention measures in compliance with the fire marshal's regulations. I think it was about two or three years ago that we started to talk in terms of centralizing this in one agency. I just wondered if the minister would comment on that.

As I recall, there were some tourist people transferred from tourism to the fire marshal's office, which took care of some of the duplication.

**Hon. Mr. Kerr:** That was in respect to lodges up north, for example. A lot of this was done by LCBO inspectors, I believe, at that time. I don't know if anybody here wants to comment on that. Maybe Mr. Wilson would? It seems to me that there wouldn't be any duplication. You'd just have an inspection by a fireman, somebody appointed either locally or otherwise to inspect tourist facilities. I'm not sure if the liquor inspectors are entirely out of the picture. I think they still have a role to play. Do you want to comment on that, Mr. Wilson?

**Mr. Wilson:** As Mr. Handleman says, the Ministry of Industry and Tourism inspectors are now with the fire marshal's office so that takes it out of that particular ministry. The liquor inspectors do inspect for fire with regard to their licensing provisions. There is some compaction now. It's not as great as we would like, but there is some improvement in the number of inspectors that are going in.

**Mr. Handleman:** A licensed establishment can have a licensed premise. Then, normally, they have rooms, though some of the smaller hotels out in the rural areas don't, which they rent. As I recall, the liquor licence inspector is enabled to look at the licensed premises but not at the rooms. Someone else would have to come from the municipality or the fire marshal or the tourism division and look at the rooms. There would be a health inspector come in and say whether something constitutes a hazard and should be cleaned up.

I'm thinking more of the operator of the establishment who has these people rolling in from time to time and really should only

have to satisfy one inspection, it seems to me, for the proper operation of his establishment with regard to fire prevention. I'm sure that's still continuing to some extent, although you say there has been some compaction.  
[10:30]

**Mr. Wilson:** That's true. But the problem is with the various sources of legislation. There's municipal legislation and provincial legislation, and there has to be some work done on clarifying jurisdiction.

**Mr. Handleman:** I'm like Mr. Lawlor; pass and say there is too much legislation. There is, there's too much.

**Mr. Lupusella:** I'm not saying that.

**Mr. Handleman:** I'm saying it.

**Mr. Ziemba:** You need one or two days a month to rescind laws that are creating hardship for people.

I didn't recall any mention made of the retail store hours legislation, Mr. Minister. When we passed the Retail Business Holidays Act at the end of 1975, the then Solicitor General promised the committee he would review it in about a year's time, and if there were any abuses then amendments might be brought in. I'm sure Mr. MacBeth was interested in following up this legislation. There have been cases.

My colleague, Bob Mackenzie, brought up a situation in the Legislature where stores were getting around the bylaw by putting up temporary partitions over Sunday to cut down their floor space. They would then be able to come within the guidelines of the legislation and open Sunday, having someone fetch the goods from the rest of the gigantic store. At the time, I remember Mr. MacBeth saying he might be amending the legislation to deal with that.

Also, just recently, I'm amazed that the number of ads that I've come across advertising Sunday sales. It's tantamount to somebody advertising that he's going to commit an offence, a crime. I'm surprised I haven't heard about charges being laid. I'd be interested to know if there have been any charges laid under this legislation, other than the odd little guy that gets harassed.

In your riding, Mr. Grande, I had a fellow selling worms and minnows to fishermen, and he complained. He thought we should amend the legislation to exempt him. I rather agree with that, because anyone who goes fishing realizes that Sunday is a good day for it. You might have to buy your bait the day you go.

**Mr. Chairman:** As long as he's not running a fish market.

**Mr. Ziemba:** No, no, he was selling worms and minnows. I can't think of his name. What is his name? He is a fine fellow. I'd be in favour of exempting him.

Perhaps the previous Solicitor General might want to comment on whether he passed his views on the bill on to his successor. Are we going to tighten it up, enforce it or do something with it?

**Mr. MacBeth:** I think I had better be careful of my comments in regard to that. I do have some general comments, but as far as the present enforcement and what the plans are, I think we'd better leave that to the current minister.

**Hon. Mr. Kerr:** I fought long and hard against this legislation.

**Mr. Ziemba:** Oh, shame.

**Hon. Mr. Kerr:** But my successor—who is also my predecessor—insisted on it. No, I'm only kidding.

**Mr. Ziemba:** Most retailers that I've canvassed are very pleased with the legislation. They find it's working well. It gives them a day off.

**Hon. Mr. Kerr:** I think that was the main intent of the legislation. We heard from a number of retail associations, the push group. They, of course, wanted uniform store hours during the week, as well as Sunday closing.

**Mr. Ziemba:** That's a good idea as well.

**Hon. Mr. Kerr:** This, of course, was much more controversial than the Sunday closing. A larger store, like Shoppers Drug Mart, for example, sells everything from picture frames to wrenches and screwdrivers. It's difficult, as you say, to know whether or not they are exempt under the legislation, or whether only a part of their store is exempt. The idea of cordoning off a certain area to comply with the size restriction is dicey, shall we say, at the best.

To answer your question, Mr. MacBeth has talked to me about this. Frankly, we worked very closely on the legislation when it came in. I'm aware of some of the things that still are a problem here, particularly in the larger stores that are staying open and sell a multiplicity of goods. We're putting this all together in a package with the idea of reviewing it and possibly bringing in some legislation so that we can remove some of the anomalies.

I haven't got the figures here—Mr. Ritchie may have—as to the number of prosecutions since this legislation has been in effect. When we see ads, as you mentioned, we follow up on them. If it's an obvious flagrant abuse of the legislation we check it out. As you



know, one of the enforcement problems is that the bill was amended in the Legislature to the effect that any store owner who celebrates the sabbath on a Saturday could close on the Saturday and open on the Sunday. That isn't a province-wide problem of enforcement, but in some cities like Toronto and Hamilton that has to be clarified and we make note of those stores. Of course, there isn't any prosecution because of the one day a week closing.

We do follow up on any advertisement where there is some abuse. All in all, I might say the legislation is successful from the point of view of the large chain stores. They are staying closed. They wanted to stay closed anyway; it was just that their competitors were staying open. I think from that point of view, the large chains are complying with the act.

**Mr. Ziemba:** There is the partitioning off of a large store, and also the other way that Shoppers Drug Mart and Top Drug Mart were able to get around the minimum employees aspect of the bill by claiming that these other employees were simply security and that they weren't employees. That, to me, is a flagrant violation. They're thumbing their noses at the provincial government. I'd like to see a crackdown there, or at least a review of the whole process. You say that you are putting together a package. When?

**Hon. Mr. Kerr:** As I say, what we're doing now is not only because of complaints such as you have been receiving, but because of letters from merchants we are receiving saying, "I had a complaint from somebody in your ministry"—or maybe the local police—"saying that I was in breach of the law last Sunday. Would you kindly clarify this for me? It seems silly that I must do this and that and the other thing, when my competitor"—because of some of the things you've mentioned as to size—"is able to get away with some of the things that I am being cautioned about."

We're making note of all this type of correspondence, any correspondence from members, of course, and from retail groups who were in favour of the legislation but who are saying that their members in their association are objecting to certain provisions. I think the biggest complaint we have is the fair and uniform enforcement of the law. As you know, the breaches are done pretty well by complaint.

We can't have an army of law enforcement officers running around on Sundays for the prime purpose of seeing what stores are open, but in the ordinary carrying out of their duties

they will notice, for example, if a grocery store or a hardware store or a shoe store is open, and they're familiar enough with the law to know that they may be in breach of the legislation.

For the most part, we depend on complaints. As a result of this and as a result of our enforcement, there's always a basic complaint from somebody who's been charged with an offence. Let's face it; these people are good law-abiding citizens who are trying to make a dollar and they may be legitimately confused with the legislation. We're putting all this information together to see if there should be amendments.

**Mr. Chairman:** I wonder, even though I'm chairman, if I could make one small comment on that. The greatest number of complaints that Mr. Lupusella and I get are from photographers in the Italian community who, because of cultural reasons, have a real vested interest in being open during the confirmation and wedding months, which are about six months out of the year. I've written several times to the Attorney General (Mr. McMurtry) asking for clarification on that and if he and the Solicitor General could get together on that. He promised that the whole matter was under review, but we still end up in the North York section of my riding with having photographers harassed. They argue that, even though they make appointments, a particular person brings along his cousin who doesn't have an appointment. That's when they get fined because they can't close the door and say to one person: Yes, you've got an appointment, but your cousin can't come in and have his daughter's confirmation picture taken at the same time." It's posed a real problem in the Italian-speaking community. That's one area that the minister might particularly want to look at in terms of reform. I thank the members for their indulgence on that. Mr. Lawlor is next on the list.

**Mr. Lawlor:** Just a word, taking a little issue with my colleague to my left and to a general disposition, a blanket indictment increasingly strikes me as somewhat being beside the point. I have listened in the Legislature for 10 years now to that holistic business about governments spending too much money. The people who are most vociferous in that particular regard are the ones who seem to be least capable of coming up with any specific designation of precisely what it is they want to do.

It is the same thing with laws. I don't defend them just as a lawyer. There is a proliferation. Rather than saying in blanket

and somewhat blank terms that there are too many, I would like to pinpoint it a bit and say which laws do you find so obnoxious or do you find so restrictive of human liberty or detrimental or not serving their purposes or for a hundred reasons that they should be eliminated. The fact of the matter is no one can do that. I defy them to do so. They may come up with one or two warble flies or something. Even my colleague, with respect to stores, is not saying the law should be wiped out. He's saying there should be more law, isn't he, or that at least they should be enforced to a greater extent? So the coercive aspects begin to emerge and law becomes even more of a bind than it is. Law is basically to free people, not to keep them in chains or put them there.

Anyway, so much for that. My colleague to the right says to me—and I wasn't here all the time—that you have not adequately addressed yourself to what I thought were very forthright and even courageous comments. This committee meets year after year on the Solicitor General's estimates. Our job is to assess, to place merit where it belongs and to scapple where necessary. The job is tough. Very few of us sitting here are prepared to make any forthright, really basically honest statements with respect to policing. It is politically inastute to do so; everybody knows that.

[10:45]

Because this group of men have such a tough job, we tend to bend over the other way not to be critical at all; it's not a question of being unduly critical. What my colleague said—and it's the first time I have heard it in this committee—was an attempt to grapple with the real issue, which would be as appreciated by the man on the beat; and you have not turned your attention to it. It's a question of attitudes. It's a question of police training. I think—and I think the task force on policing in Ontario goes some distance in that direction—that you are going to have to give some fairly fundamental rethinking to the whole process of police training. We have mentioned this before.

I was at Queensway hospital the other day and three different cruisers were outside that hospital bringing people in with injuries. I think that's great, that's community service. But it has nothing to do with a sort of hard-core notion of policing in the sense of what the programs are oriented to—namely, the capture of criminals. I dare say that many policemen could spend a good part of their career without capturing very many criminals but they, nevertheless, perform a

major function and a highly valuable one. Probably 80 per cent of the average policeman's time is spent on public service work. And isn't the answer the one that affects the law society and 100 other professional bodies? Namely, that there should be—and there are now to some degree—specialized groups with particular competence in one area against the majority who are, in a sense, general practitioners.

Larger emphasis and direction should be placed in that particular direction. Eighty per cent of a policeman's time is spent in public service work of one kind or another and it has very little to do with either the detection or apprehension of the criminal. I leave out, except for impaired driving, basically a lot of traffic offences which takes a great deal of time and which, of course, is necessary. In other words, we should bring that in to the public service field. And this constitutes the best relationship; this is where people turn to. With the society that is in the process of fundamental change or transition or—if you want to be a right-wing person and say total disintegration; at the moment I don't care to argue the proposition—in a society that is to some degree breaking down or changing in a fundamental way, with the models of authority being called into question very profoundly, the family structure being either altered in a way we can't quite envisage or simply dissolving, the function of law and those who enforce laws is given a paramountcy, given a heightened significance that it did not previously enjoy.

This is an ongoing process with us at the present time and, therefore, the authoritarian elements in the society tend to rise to the top and to substitute for what were, in previous societies and what we grew up with, perhaps more benign, more understanding, more compassionate qualities and all this sort of thing in the process of growth; and bringing down the lid upon people's heads seems to be in the works for the simple reason that other methods of human control or surveillance are disappearing.

I don't think we can reverse that. What I do think we have to do is understand it and, thereby, ameliorate in one way or another the hard edge of that which does more to wound than to heal and, by accumulative process, can become quite coercive. It is the police attitude, therefore, to be aware of what the trends in society are—to be aware of where the dynamics are operating, to know where the destructive elements are to be found. That is not necessarily in terms of overt destruction of property but where incitement, where violence, is brewing, where

assault is potential. This is the preventive aspect and the insightful one.

There are lots of people who are cognizant of this, who spend their time thinking of these matters. I don't think you avail yourself of their services to any great extent nor do I think that those who administer curricula in police colleges and elsewhere do so either. You, as minister, would be the pivot on which this would turn.

Law by definition is anti-creative; it is based on precedent. It tries to enforce the past. That is what it is all about. The chief thing in any law is to be able to predict. That sets up uniformity, standardization, stereotypes and doesn't let the human spirit move very much. That is the fault in law; that is its negative side. It is largely negative. Nevertheless, it keeps some things in balance which might otherwise go completely haywire. To that extent, we have to give cognizance to it. It doesn't pretend that it is going to do very much to alter human dispositions and permit us to grow. At best, it keeps us where we are. Very often, it sort of restricts us and cuts us back.

Therefore, a reform in police structures perhaps should be envisaged where the emphasis is placed, in a very wide spectrum of the police forces, on the public service aspect over here and where special training and special men who have a particular disposition and capability could be trained in a somewhat different way. In other words, you begin to work out a restructuring of the whole police apparatus and look into a different type of future.

What my colleague has said is in line with all that. He is concerned about the ethnic community, about the impact upon people in terms of alienation from the police, of not wishing to assist them, of pulling back, of growling under their breaths with respect to petty restrictions when a more benign attitude might ease all these things. The young police officer cannot be expected to—out of straight personality—unless his superiors give cognizance to this and encourage a somewhat more liberal attitude.

I think that task force on policing, the first 50 pages of that—maybe the first 25—is one of the most visionary documents to come down. We have discussed it at length—I won't reinitiate the passages that we have had in previous years—but it has an enormous amount of merit. I just wonder how seriously you have all taken it.

In terms of a survey of all the various recommendations that have been carried out—we have had long lists, et cetera, where I suppose about 87 per cent of this has,

either in token or in reality, been brought into being and enforced. These other things about which I am speaking and which my colleague is concerned about are a little bit more nebulous. They're a little bit harder to put your finger on. Human attitudes are just a little bit more esoteric. Trying to assess them in statistical terms is quite impossible. Nevertheless, we all know what we are talking about. We all know what we undergo day by day with respect to our encounters with the police force—encounters which, by and large, for all of us are rather benign, rather beneficial.

One final thing: I don't know how you tackle it, but have you given much thought to the business of an ingrown police culture? We talk about ingrown criminal cultures in our jails and prisons, and outside too, where a certain solidified group in society incestuously intertwines and feeds upon one another and sets up a particular morality peculiar to the group. Capitalists do this. Even socialists do it, I suspect.

**Hon. Mr. Kerr:** Yes, indeed.

**Mr. Lawlor:** But certainly the police do it, and it's a most regrettable damned thing, because if you're in detachment from other people and not open to them and feel somehow hostile that attitude spreads itself. One detects it immediately. If the chief mode is aggression and the chief mode of enforcement is to punish, you're not in any way giving any potential to the society. I think that's very prevalent.

How do you start? You start in the educational process at the college by way of instructing in different attitudes and at least pointing out that another point of view may be possible than the present restrictive and coercive point of view that I'm talking about and taking issue with.

I'm inclined to think that over against certain aspects of the American system where a certain rampant ingrown culture stuff tends to override the body politic itself, that is not present here and in this particular regard we're very much closer to the European model, particularly the British model, of the modified police force. That's fine.

The only other thing I have to say is that sometimes it bothers me as a politician that the senior officers, particularly chiefs of police, meeting in solemn assembly take what I consider very often arbitrary and hectoring stands with respect to matters which are in my opinion, more properly left to the politicians and to the general citizenry.

Police chiefs hold high prestige. People look up to them, as they should. But they are



specifically appointed in a peculiar role and to weigh the prestige they enjoy by way of the job they do in favour of a particular policy affecting the whole citizenry seems to me a usurpation of their functions.

I'm not going to mention any specific area. I suppose I'm complaining because it's always in favour of various forms of laceration, confinement, locking up. It never seems to be in favour of a little liberation, a pulling back, saying there's too many laws. It's never that way. It's always in the direction of punishment and coercion. That's strange and that's not necessary. I've said enough.

**Hon. Mr. Kerr:** I'm a little disappointed, certainly not in the member for Lakeshore's first remarks regarding the comments on store hours and the observation that maybe we have too many laws; we've heard that over and over again, and I guess we're as responsible in this Legislature as other law-makers.

For the most part, the people who are charged with the responsibility of enforcing those laws don't have all that much to say in what they should be or what laws should be put into effect. Maybe I'm using a bad example but, as you know, our legislation dealing with the mandatory use of seatbelts was not entirely welcomed at first with great enthusiasm by the police, because of the problems of enforcement. However, in spite of that, the law is now being enforced. I'm sure Sunday closing laws would also be in that category. They don't relish the role of having to enforce legislation that not only is supposed to be for the good of the citizens but also may be unduly restrictive and affect people who, as I say, are basically law-abiding citizens trying to make an enterprise work successfully.

I agree with his general comments about that. However, I thought in my opening remarks I emphasized the community role of the police officer and what we're attempting to do with our training program at Aylmer, as well as the general policy in relation to recruiting police officers, with the emphasis being more and more on community activity in attempting to improve, if necessary, the attitude of police officers, particularly those officers in a large metropolitan area where they are serving in various communities where there are ethnic groups or new Canadians. The hiring policy of the police has improved greatly, in my opinion, with the idea of hiring more and more people from those communities who can go back and serve those communities and, therefore, who know and appreciate the attitudes of people there.

[11:00]

One of the criticisms of the member for Dovercourt was the paramilitary atmosphere surrounding the police in Ontario, and yet the member for Lakeshore threw in at the end the fact that he feels that our police are closer to the British model than to the American model. Of course, the British model still emphasizes to some extent the paramilitary training or stance or objectives of their forces. I don't think you can entirely do away with that. The basic training that is given at Aylmer and required of any police officer is bound to have certain aspects of a paramilitary stance and appearance. But the fact is, and maybe it's since the task force on policing, that the emphasis in the area of recruitment and training has been towards affecting the attitude and the emphasis of the police away from strictly that of a law enforcement officer as one who warns or arrests or who is involved in some way with enforcement, with the appearance of aggression or punishment. That is being de-emphasized in recruiting and training—possibly not enough to satisfy some of the critics but certainly there has been tremendous improvement over the past few years.

We musn't forget, however, that at one stage we have the criticism or observation that the police should be more kindly, more understanding, involved in community work, involved with young people in the schools and this type of thing. Then, of course, we have the constant criticism, whether it is from the media, politicians or what have you, about crime rates and the increase in serious crime, with reference to statistics of unsolved crimes. I am sure the member for Dovercourt will talk about organized crime before these estimates are over.

I suggest you can't entirely have it both ways. We must have a well-trained police force that is trained to specialize in certain areas. At the same time, the cop on the beat, to use a phrase, or the police officer who is in a cruiser doing general policing duties and surveillance in covering a beat, must have complete training, not only to know how to protect himself but to handle any type of emergency.

I agree there should be more emphasis on training specialized groups with particular competence, shall we say, apart from the "GPs" in the forces. We have our anti-racket squads, tactical units, drug squads and those people who are working with other police forces in combating organized crime. We do that. There is more and more emphasis on that in our metropolitan areas, particularly in an area such as Toronto which could be part of international criminal activity.

In addition there are the community officers I have referred to before. I listed them this morning in reply to Mrs. Campbell's question. Community service officers, foot patrols, ethnic squad officers, the liaison group on law enforcement and race relations, officers working with Neighbourhood Watch and Block Parent programs, Checkmate, crisis intervention—team policing—all these things are all new and have come into effect since the report of the task force of policing.

Generally, the chiefs' attitudes are changing. In the whole area of recruitment, the emphasis is on various types of psychological testing; during the probationary period, the emphasis is more and more on the broad aspects of training of police officers. If you talk to the average chief, one of the things he is looking at is the attitude of the recruit during that probationary period. How does he react under certain circumstances? How does he treat people? Is he a gauleiter or is he a public servant as his role really is?

I say we are making headway. More and more, the police—it is not necessary for me to talk about the various organizations in which the police are involved in the community, whether it's a charity or in youth athletics or youth programs. They are becoming more and more involved in that now. I think that as we devise laws that accentuate and assist the police in emphasizing this, some of the things that the member for Lakeshore has mentioned will come to pass.

**Mr. Lawlor:** I've just got one further question. What is the attitude of the OPP and the city police with respect to members of the public—particularly elected members of the public, although I don't want to segregate us off too much—in going into the police station and going out with policemen on the beat and in the cruisers? Do they welcome that on the whole?

**Hon. Mr. Kerr:** Yes. I mentioned in my opening remarks the number of three stations in Toronto where the police are taking people, particularly young people, out in cruisers. They are showing them the life of a police officer during a shift, whether it's day or evening. We should probably do more of that. Mrs. Campbell mentioned that she had once been on the graveyard shift with a police officer, and understands some of the problems and frustrations they face. That is being done. I really don't think it is being done enough. But it is being done in Toronto at least, at three different stations that I am aware of. I don't know if Mr. Graham wants to comment on that.

A lot of it is the result of police attending schools and giving lectures, showing films and

answering questions. Naturally the young people have asked, "Can we go out in the cruiser with you?" So the program was started here, as a result of so many youngsters wanting to do just that. I hope it spreads.

**Mr. Lawlor:** If more of us did it, these barriers that I spoke about would tend to be eroded and possibly even broken down to a greater extent.

**Mr. Chairman:** Mr. Graham, would you like to comment on that?

**Mr. Graham:** Thank you, Mr. Chairman. In almost every OPP detachment throughout the province students are occasionally taken out in our cruisers. The only stipulation is that they must sign a waiver so that we are not held responsible in the case of an accident or something of that nature. We welcome the members of the Legislature and anyone else.

There are some dangers, of course, that when they are on regular patrol they might encounter something of a criminal nature. It would hamper the police officer to some extent under the circumstances. But occasionally we do take people out, and we welcome that.

**Mr. Roy:** I have listened with interest to the general discussions on some of the policy in this ministry. I have had the—I don't know whether to say the "honour"—but I certainly have had the occasion to participate in many discussions of the estimates of this ministry over the years. I have seen a succession of ministers. I have always been one who has been aggressively critical on many topics in the past. Possibly I should start off by saying that I want to thank you, Mr. Minister, and your assistant deputy, Mr. Frank Wilson.

[11:15]

Recently, I had a problem involving a coroner in eastern Ontario, in trying to get a post mortem report and trying to determine when an inquest was going to be held in relation to a very important incident down in eastern Ontario. Of course, I didn't know that the coroner involved was in the hospital and was not getting the correspondence from us. I sent a copy of a letter to you and in just a matter of a few days the matter was clarified. We haven't had a date for the inquest yet, but I was impressed by the quickness of the response and the efficiency of the approach taken by Mr. Wilson, who called me to give me some explanation on what the problem had been in that area. I think you should be congratulated for the quickness and the efficiency with which the whole process was handled so that I was able to get that response.

**Mr. Lawlor:** Is he still a Queen's proctor?

**Mr. Roy:** A Queen's proctor? Frank has been around so long he could be anything, I suppose.

I would like to discuss some general policy matters and get some response from you in relation to certain specific points dealing with whether we can expect further legislation on the Police Act. That was something that had been suggested prior to Christmas and then had been withdrawn. Then there is my continual concern about a regional force in the Ottawa-Carleton area. That is something Mr. Handleman and I agree on. We don't agree on many things, but I think that's one of the things we agree on.

I want to say to my colleague, Mr. Handleman, that you've got a perfect example, in relation to the regional force, on the value of minority government. It's something you don't like very much, but it's something which proves to be a good stopgap when we're trying to rush legislation through.

**Mr. Handleman:** As long as you're sure of your caucus, that's right.

**Mr. Roy:** Yes. My colleague from Carleton on a number of occasions has been very critical of the process of minority government but, at least in two areas minority government has proven to be extremely beneficial.

Let me start, first of all, with the regional force. I'm convinced that had you people had majority government you would have regionalized the force in Ottawa, but with minority government you couldn't. The Treasurer (Mr. McKeough) didn't want to make that sort of decision and get flak in the House.

**Mr. Handleman:** We would have lost the majority in no time. We would have all crossed the floor.

**Hon. Mr. Kerr:** Give me some reasons why you're not in favour of a regional force.

**Mr. Roy:** Sure, I will.

**Hon. Mr. Kerr:** Outside of the fact that you have constituencies outside of the city proper, which is a typical reaction.

**Mr. Roy:** I'll go into that because I'm one who represents Ottawa and I would probably benefit by supporting regional police forces. But let me talk about that question of the regional force. In my early days of professional life when I was assistant crown attorney in Ottawa, I used to prosecute cases for various police forces. As you may or may not know, in the Ottawa area we have the Gloucester police force.

**Hon. Mr. Kerr:** And Vanier.

**Mr. Roy:** Just a second, I'm starting from the east now with Gloucester, Vanier, Ottawa,

Nepean, the OPP who patrol Rockcliffe and some of those areas, and the RCMP who patrol the national capital property. You were faced with all these police forces. In the preparation and prosecution of the cases, you could see the levels of competence of various forces. After a while, and even when I left the crown's office and worked with the defence, on a particular case I could give you percentages of chances for the accused. I could say to him his chances of acquittal had increased by 10 per cent if it was this force or had been reduced by five per cent if it was the other force.

**Hon. Mr. Kerr:** Oh, now we know.

**Mr. Roy:** This was in the early days when the Treasurer was running gung-ho with regional government and saying about regionalizing that big is better and all of that. I saw the process, the regionalization of various police forces and I saw what happened in Montreal, for instance, as one example of what might happen when a big force is established and perhaps gets out of control. I've changed my mind on the question of regional forces, and the reasons are as follows:

First of all, looking at the question as politicians and as protectors of the public purse on behalf of taxpayers, I was under the impression that, theoretically, it was cheaper if you had a larger force instead of all the smaller forces; you would have fewer people in the hierarchy, you would have one chief instead of five or six in this area and everything else. But statistically, unless the minister can prove me wrong, that is not the case. In fact, in regional government it worked out that being bigger did not make it more efficient on a cost side; it was not cheaper.

The second thing that is of concern to me is that large forces realized they had lost contact with the public, with the different neighbourhoods and everything else, and, after you had established a large force, then you were involved in doing some of the things you've mentioned even this morning: getting the police back into the community and so on. In fact, what you were doing was breaking it down again.

I felt that the great advantage of the forces in Ottawa is that they're close to the community. The Gloucester force is close to its community. The Vanier force has had problems because of the chief and things like that, but it's representative of that community and it's close to the community. In Nepean the situation is the same.

All you're doing by having a large force, unless you get public participation and get



the people involved, is that after a while you find the efficiency of your force, and of the people co-operating with the force, is lost. With a large force, the people on the beat don't have this close association. Not only is it lost in terms of human contact, but also efficiency is lost. When you've got the community co-operating with the police force, it's very helpful to give you leads, to tell you what is going on. In an investigation it's helpful when a police officer has contact with the community; he knows certain other persons who know what's happening and he can get information.

The other thing that is of concern to me is that I've seen the power and the weight of what happens when a large force decides to bargain and sort of holds the public almost as hostages. I've been extremely concerned by what that regional force in Montreal has done on a number of occasions where, for all intents and purposes, they decided to walk out, for whatever reason, and they've really held the whole community as hostage. We've seen some of the incidents that have happened, and it concerns me, when you have a large force of that nature, that sometimes the leadership is questionable; when they get relatively hostile, they can take actions that are very detrimental to the community.

The final point relates to statistics and, unless you prove me wrong again, the efficiency side; whether there was better law enforcement, whether there were more convictions, whether they controlled crime any better if there were a large force. It's clear in Ottawa—at least some of your predecessors have said so—that the statistics I've been able to see show that the smaller forces were efficient in the sense that there was no evidence that the situation in the regional area of Ottawa-Carleton was less efficient than it is in similar areas, such as Hamilton or other areas of the province where there are regional forces.

For all these reasons, it seemed to me that we were embarking on a process of regionalization which did not seem to make sense. I've taken the position, even though I represent an area of Ottawa—I only have Vanier; I don't represent any part of Nepean or Gloucester—that the only people who seemed to be in favour of a regional force in Ottawa were a few of the locally elected people on Ottawa council and the chief of police of Ottawa.

For these reasons, Mr. Minister, I've come to the conclusion that a regional force is not going to be any advantage to the Ottawa-Carleton area. I say again to my colleague from Carleton that if there had been a majority government, McKeough would probably have gone ahead, because he wouldn't have

been faced with the risk of the other parties blocking him on this. You may know more about what happened in your caucus than I do.

**Mr. MacBeth:** I'm not too sure about that.

**Mr. Roy:** The other thing I would say on this question of a regional force is that I find it very unfair that, having at this time made a public decision not to regionalize the force in Ottawa, that the force should be penalized on the basis of grants. It seems to me that if the provincial government makes a decision to leave the force as it is, and recognizes that it's doing a good job and that there's no compelling reason to regionalize it, it should not, on the other hand, penalize them on grants. As you know, we're still faced with that situation whereby a regional force receives more money—I may be corrected but that was certainly the situation in the past—and is still given greater incentives than the forces in Ottawa.

These are my comments on the regional force and I look forward to the comments from the minister on this.

**Mr. Chairman:** Before I ask for comments from the minister, since Mr. Roy has involved Mr. Handleman's name several times, I'm going to give Mr. Handleman two minutes to comment.

**Mr. Handleman:** I'm sure the minister can do that. I agree with many of the reasons that Mr. Roy has given for there not being a regional force.

I should point out that the move toward a regional force took place between 1971 and 1975 and I don't recall there being a minority government at that time. The fact that there wasn't one certainly cannot be attributed to our government.

I think what really happened was, just as Mr. Roy said, the people in the area are behind their local forces. The local forces, I think, have done a very good job of letting the people know what they're doing and getting the people's support. It just doesn't happen through a public relations exercise, it happens because of the high level of service and community involvement.

As far as grants are concerned, this claim has been made from my own area, and I have always pointed out the vast area in the region which are policed free. As a result, if the province were to adopt a system of everyone paying for the policing they get—and that's something which I understand is being looked at now—we may very well have a single level of per capita grant. But at the present time when a number of areas in the region are being policed for nothing by the

OPP, I certainly don't feel those who have their own police forces should suddenly be given a greater amount of public funding. Really, for the most part, as the reeve of Gloucester pointed out, their per capita costs are relatively low. It would seem to me that's one of the reasons for having a local police force, they don't need the additional funding if they're able to provide a service at a total cost to the taxpayers which is in line why should they be subsidized further by the province though being given a regional grant?

My understanding of the rationale for the higher regional grant is simply the recognition that it does cost more to have a regional police force, and this is one way of offsetting the additional cost.

**Mr. Roy:** Just on that point, if I may: Wasn't one of the reasons for the regional grant as an incentive to regionalize the force?

**Mr. M. N. Davison:** They'd have to repaint their cars.

**Hon. Mr. Kerr:** No, there are certain changes. The implementation of a regional force—the whole process of amalgamation—can become fairly costly, the same as regional government itself. As you know, we have transitional grants in that situation. There's no question that in establishing the regional force there's a tendency that a precinct station in one part of the region has to compare with another precinct station. They want uniformity, the same level of service and protection in all areas of the region.

It has been mentioned that the OPP have been involved in many parts of the region, particularly in the rural areas. The forces are expanded to take in more territory within the region over a staged period of time. I think there's some reason for the difference in the amount of the grants. I don't really want to get into too much on this subject. I suppose the situation in regions varies.

[11:30]

Referring very briefly to what Mayo said, he felt that there would be less duplication. He mentioned, of course, the anomaly of Vanier in the middle and surrounded by another municipal force. He felt there would be more efficiency; there would be one hierarchy, as the hon. member for Ottawa East mentioned, rather than three or four or five. Because of the grants from the regionalization, the force would have more and better, sophisticated equipment, in communications particularly. That has taken place in areas like Niagara, Hamilton-Wentworth, Halton-Peel. Granted policing becomes more expensive, but the general efficiency of the

force, the standard of service has substantially improved.

However, even in those areas where I live, in Halton, there is a feeling by the public that we don't see those local officers on the street as much as we used to. Police headquarters is not in downtown Burlington now, it is in Oakville; all we have is a precinct station in Burlington. There is a certain amount of leanness about that. So you lose that more intimate relationship between the public and the police, I suppose, at least during the initial stage of regionalization. I think all that will come back again. It is quite a job taking four, five or six communities that have small police forces—and of course you are involved with the OPP in the rural areas — and putting them under one force. There are some cases where the chief in one community wants to be the regional chief, but it doesn't work out that way. There is a certain amount of human relations that have to be soothed and developed so that you get a unified force with the type of morale that is necessary for efficient policing.

I don't want to dwell on Ottawa-Carleton. I know that some of the things that both the honourable members have said would apply and are quite relevant. I just feel that over a long haul, for a proper, efficient, well-equipped, properly trained force, the larger force, in an area that has a certain amount of sameness throughout would be more efficient.

**Mr. Roy:** Mr. Chairman, just a couple of more questions of the minister. Do you plan to come in with amendments to the police act along the lines your predecessor had put before the House some time before Christmas? Would you advise whether you had contacts with police associations across the province? They are pretty excited about some of their rights and privileges that are going to be abrogated by this law. Do you plan to bring in amendments to the Police Act?

**Hon. Mr. Kerr:** Yes. Since becoming minister, I have attempted to familiarize myself, not only with the legislation but also with some of the concerns that have been expressed by police associations, by the chiefs, by the governing authorities; as well as civil libertarians who still have some objections. I have met with these groups ever since the middle of February and I still have more meetings arranged this spring. A lot of the submissions that have been made indicate some misunderstanding about the provisions of the bill. Following these meetings, because there is a certain amount of clarification, the delegation seems to go away happier, but



there is no question that, in relation to Bill 114 particularly, there will have to be further amendments. There is really no sense in bringing in legislation that continues to be that controversial and stirs up that much vehement opposition. It undermines the morale of the police forces and causes unnecessary controversy. We all seem to have the same general objective here and it is a matter of putting it into words that result in the greatest consensus.

**Mr. Roy:** Will you bring in the legislation before June?

**Hon. Mr. Kerr:** I think we will still go ahead and have it in two bills, as was done last fall. I am anxious to bring in the bill dealing with the police commissions because, very frankly, there are a number of judges who are on police commissions now who, because they are not being paid any more, want to retire. So we want to bring in legislation that doesn't have that mandatory provision any more, and certain other provisions that were in that bill that tied in generally with police commissions and police budgets. Bill 114 really has much more meat in it and includes the citizen complaints review procedure, and disciplining generally in respect to complaints. I don't expect to reintroduce that bill until the fall.

**Mr. Roy:** Okay. I just have one more question to the minister while we are talking about rules and regulations under the Police Act. I thought it really was something, reading the paper last night, about this inspector with the RCMP who was questioned by a senior member of the force pertaining to his activities in getting agents to participate in some of the activities of the RCMP. When he was questioned by his superior officer he was told he could either give a statement or remain silent. When he chose to remain silent, he was advised then that if he remained silent this was an offence under the RCMP Act. I thought it was a real Catch-22 situation. I understand that no such provision exists under our Police Act.

I just wanted to raise one further point, something I had raised with you in the Legislature and which is of concern to me. While you are talking about amendments, whether it's going to be under the Police Act or under some other statute, and that is in relation to the confidentiality of criminal records of individuals. You recall, of course, the unfortunate situation in Ottawa where a Hudson Bay store wanting to hire certain individuals would get in touch with a private security firm which was able to get access to criminal records of prospective employees and this information was transferred on.

I found that to be most offensive and the minister's response was that that sort of activity was limited to the Ottawa police force. I am not so sure that it is limited to the Ottawa police force. At the time that this happened, I glanced quickly through the statutes to see what protection there was to keeping the confidentiality of police records. I was very surprised to see there wasn't very much protection at all through legislation. I'm not as good in research as I used to be—I may well have missed something—but subsequently other lawyers have looked through the statutes and have found no clear protection. There is, under the Police Act, some protection about the confidentiality of certain information, but specifically dealing with police records, I may be corrected, I don't think there is anything there. I think there is something in one of the regulations talking generally about confidentiality of information.

But you had a situation in Ottawa where the information was apparently released by lay personnel, not by police officers. Of course, in that situation there was no protection. Apparently there were no laws or regulations governing the activities of lay personnel in relation to what we considered to be confidential information. Basically we were left with the conclusion that that information remained privileged or confidential, just by the practice of police officers not releasing it.

Although I have no hard evidence, it seems to me that this is something that is widespread across the province. If we don't want to undermine that whole process of criminal records and their confidentiality, it would seem to me to be important that we have some legislation. It could be in the Police Act or elsewhere, and would govern the privilege and confidentiality of that information, not only for police officers but for lay people who work within police forces. Because as police forces get larger you often get more and more lay personnel doing that technical work around computers in the storage of that type of information. I'd like to ask the minister if he proposes to look at this problem to see whether we should not be clearer in our legislation governing the confidentiality of such information and applying it to all people involved in police work, including lay people.

**Hon. Mr. Kerr:** It's my understanding there are regulations under the Police Act. It's really part of the oath of office of the police officer that information of this kind is confidential, particularly information that may be contained by CPIC. It's only to be distributed in a particular way; basically, to other police officers and people who are part of the CPIC system.



The honourable member is right. I'm not aware of any specific regulations applying to civilian personnel working for the police. Immediately after receiving the honourable member's question and as a result of our investigation, we did issue directives through the OPC and the OPP. We reminded the chiefs and those in command that these are the regulations and that information like this is highly confidential. It's not to be used in the way that was alleged.

Frankly, I'm not aware of how widespread this is. I suppose wherever there are a number of credit or private investigation bureaux doing business with retail stores, some of this may be going on. I'm hoping, of course, that now it will be eliminated.

As the honourable member suggested, we're taking a look at the idea of extending any controls, regulations or restrictions in this regard to civilian personnel. They are not, as I say, affected by any legislation that I'm aware of, but there are certain policies inherent in the various police departments regarding civilian personnel. Whether it's an understanding, a direction, part of an oath of office or what have you, certain rules as to confidentiality must be carried out. In many respects, civilian personnel, have access to highly sensitive and confidential information particularly if they're employed around CPIC. Naturally, the same rules should apply.

I haven't received a report on that or made any decision on whether we should bring in legislation. But we're considering it.

[11:45]

**Mr. Roy:** For the record, what I found under the Police Act was that in regulation 680, section 5, which deals with the code of offences, if you look at subsections (a), (c) and (d), they talk generally about confidentiality in information releasing and say that it is an offence to release certain information. That's the only thing mentioned, but it's not clear. It talks about information generally and not specifically about criminal records. That's the only thing I could find under the Police Act.

Of course, under the Criminal Records Act, chapter 12 of the Revised Statutes of Canada, which is a federal statute, it is an offence there to release any information pertaining to one's criminal record after he's had a pardon. As you know, these are relatively new provisions. This reference to a pardon was enacted during the last five to seven years. After two years on a summary conviction or five years on an indictable offence, you can get a pardon. It was an offence, then, if one had a

pardon to release information that he had previously had a criminal record. That's the only thing I could find. I thought it was not clear enough and certainly I could not see it applying to lay people working in various police departments.

**Mr. MacBeth:** Under vote 1601, item 1, I know it's customary to cover the whole field of operations in the ministry and I trust that a little later on we'll move along a little faster. I do note under that vote that you have reduced the estimates from last year by some \$85,000. I won't ask you how you did that for fear it might embarrass myself, but I do commend you on doing so. The whole ministry seems to be moving in a way that it's trying to save a few dollars. I commend you for it.

I would like to make a few comments on some of the opening remarks of the other members of the committee, particularly the member for Dovercourt (Mr. Lupusella). I feel I'd like to take exception to some of his remarks and particularly to be recorded as being on the other side of the coin. He made some reference to the labour problems at the Fleck plant. I think he suggested the police were not acting fairly in that situation or perhaps not with as great understanding as they might have for the members of the striking employees.

Sometimes we try to place too much responsibility on the police in the sense that they are there to enforce the law. We forget that part of that law is to allow other people access to the plant. Those people who want to get in there are entitled to get into that plant. When the member for Dovercourt was critical of that, he probably is suggesting that the police should be in the role of enforcing the strike, so that people can't get in and out of there.

It's unfair to criticize the police for that sort of thing because that is not the law. If I want to get into that plant for any reason at all, I have a right to get into it and it's the responsibility of the police to make sure I get in there and that my rights are protected. I feel they are unfavourably criticized in those situations. I think the OPP has done a pretty good job, in that situation, of keeping the balance.

Reference has been made, again this morning, to the paramilitary training that police receive and the thought that it would be more appropriate if more of their time was spent in the actual apprehension of criminals rather in so much of the community work they do. I agree in part with that. You indicated you were leaning more toward less military training. I'd ask you to proceed with

caution, if that is on your mind. I think military training is particularly good for police in the role they have to perform by reason of their need for fitness. Certainly for the matter of appearance we generally associate some sort of physical fitness program with military training. When we compare the appearance of our Canadian police with police south of the border, we're generally impressed by how much better they are than the kind of policemen you get in Texas or New York City.

**Mr. M. N. Davison:** Please be specific.

**Mr. Ziembra:** And how tall they are.

**Mr. MacBeth:** Throughout the province, ours have a good appearance and I think that is—

**Mr. Roy:** They have that lean and hungry look.

**Mr. MacBeth:** That's right. I certainly would not make a policeman at the present time, for a variety of reasons. But I think it's important that they have that military training to give them that appearance. I think it is so important to the respect we expect them to have, along with such things as punctuality. There are many situations when police need to obey a command and obey it quickly if the orders for some general scheme are to be carried out, whether it's the apprehension of a criminal or some sort of hostage situation. These men or women have to be ready to obey without question.

So go cautiously, Mr. Minister, if you are thinking of getting away from the military training. I'm one who thinks it has a very valuable part to play in police training, despite the fact that so much of their duties are more in the nature of social work these days than the actual apprehension of criminals.

The member for Dovercourt raised the point of identification other than through a number. That's one place where I would endorse what he has said. I don't know why police have traditionally been known by a badge number rather than by a name. I think there's something more dignified in being known by a name, rather than by a number. I also think members of the public may catch a name on a tunic more quickly than a number and be able to remember it faster or easier. I'd like to hear further from you some time, Mr. Minister, on the matter of why the police may prefer the number to the name. I think there's much merit in having their name visible, or perhaps in addition to the number.

**Hon. Mr. Kerr:** I get confused between the chairman of the Ontario Provincial

Police and the chairman of the Ontario Police Commission.

**Mr. MacBeth:** So you think they should both have numbers? If you look into their past, they may have numbers.

**Hon. Mr. Kerr:** Unless they had nicknames, like "Flip" Graham, or something like that.

**Mr. MacBeth:** Maybe you need a number and a name, but I think there are very good reasons for having the name showing. I've never heard why the police oppose it. They may not oppose it, but I think some of the senior officials are opposed to it.

**Mr. Chairman:** Does the minister wish to reply?

**Mr. MacBeth:** I just want to cover the rest of that. That's the only thing that maybe he can give some further thought to; the rest of my remarks aren't questions, but more comments.

My favourite subject, of course, is the matter raised by the member for St. George (Mrs. Campbell) about judges on police commissions. I am one who very strongly believes they do serve a purpose. I think you indicated, Mr. Minister, that some of them are anxious to be relieved of that duty because they weren't being paid specifically for that any longer. I think you'd be the first to agree there are many who are pleased to serve on the commissions despite the fact they are not being paid. They do it as a public service, and because it is a job that provides some challenge and interest to them.

I think it is important that we have people who are impartial on police commissions. That is the very reason that some people argue to have judges off police commissions, because they are not impartial. I know it's a popular argument, but I would ask those people to find me some group of citizens from which we can choose commissioners who are more impartial and trained to be more impartial than judges.

Sure you might put lawyers or doctors, school teachers or labour people on there, but they all have their prejudices of one sort or another. Judges are specifically trained to detach themselves. I'm not saying they're all successful at it, but they try to detach themselves from those prejudices. I know they may be dealing with police commission matters one day and a criminal matter the next day. Remember, the practice is now not to put provincial judges on these commissions; they are, for the most part, county court judges.

In a large county like York, you are not getting those people dealing with police court matters every day. Those duties are spread amongst a good number of judges.

I think that the chances of conflict are limited. As I say, judges are trained. They serve, particularly on the smaller commissions, a very useful function in being able to bring some legal thought and training to this office, which it very often requires. Where the commissions might otherwise have to employ a counsel for each and every one of their meetings, they have present the expertise that a judge automatically brings to that office. So again, Mr. Minister, when you are looking at the bill with that in mind, I hope you will not rule out judges but make it optional.

Just a word or two in connection with the holiday and Sunday closing. That was a real jungle before the province stepped in. It is one example where minority government worked very well, because all three parties had the same objective in mind. Because the objective was the same, I think that when it was brought to committee we worked out a set of laws or statutes that will serve us well. I am surprised at just how well it has worked in view of the jungle that existed before.

I am not saying that it is perfect now. I think you will have to look at such things as pet stores again in the future. The partitioning that was mentioned by the member for High Park-Swansea (Mr. Ziemba) I think is one of the worst parts of that law and probably where the most abuse takes place. Probably you will have to have more rigid rules for that.

When it was first brought in I was afraid of the tourist area, because even the city of Toronto in some areas seemed to think that was their reason for giving all sorts of concessions. But I think when they found out they had the responsibility to exercise and it was on their shoulders, most of the municipalities have come to accept that responsibility and are now using it with a little more discretion and not to defeat the intent of the law.

On Rockcliffe community policing, I could not listen to all those comments about the Ottawa-Carleton area of policing problems without again putting in a little plug for the OPP, who I think probably give the best kind of community policing you will find anywhere, and that is in the community of Rockcliffe. I recognize that Rockcliffe is a particular nature, a very high class community—if we have high class communities around this province.

**Mr. Handleman:** It's called hob-nobbing.

**Mr. MacBeth:** I do think that you get community policing at its best there. You find the police know the people who live there and do take part in all the things that

the member for Lakeshore (Mr. Lawlor) would like to see police take part in.

In regard to Bill 114, that was originally introduced under a lot of pressure for civilian boards to look into citizen complaints. I think in the interval some of that pressure has died, partly because so many of the civilian complaint procedures that presently exist are better known and I think are functioning very well. It may be that you can shelve Bill 114 for a long time and keep the status quo, but I just want to make those comments. The only one that I was asking for reply on, Mr. Chairman, was the matter of identification.

**Hon. Mr. Kerr:** Thank you, Mr. MacBeth. As I mentioned in my remarks last week, I think it was the Sparrow committee that made a submission to us and to Metro regarding identification. This was as a result of a study by that committee of the various jurisdictions. I have in turn written to the commissioner of the OPP, to the Ontario Police Commission and to Harold Adamson asking for comment. When I have all those, we will of course make some recommendations as to what type of identification or what improvements can be made in the area of identification.

[12:00]

I tend to agree with my predecessor's remarks: there could be some improvement. Whether it's a number or a name or a better type of identification we will decide on will, of course, depend on what we hear back from the various chiefs and people in charge of running our police force.

The only other comment I would like to make is, while I agree with the honourable member's remarks regarding judges on police commissions, I think we tend to forget that there is more to Ontario and to policing than Metropolitan Toronto or Hamilton or Ottawa. If you look down through the years at the record of judges on those small police commissions in the various communities throughout the province, it's been exemplary. The status of the judge—his own reputation and status in the community—has enhanced the role and the authority of police commissions. It has helped in policing generally, in the operation of those small forces in arriving at complement or budgets or what have you.

There hasn't really been any valid or direct accusation of bias or prejudice or conflict. I realize that McRuer is our bible; and we are attempting to implement as many of his recommendations as possible. I know that judges not only have to be impartial but have to be seen to be impartial, not to have a conflict. I suppose, in the strict sense there could be considered a conflict. That's one of



the reasons why, without the value of legislation, we have implemented a policy of eliminating all magistrates or provincial court judges from police commissions so that outside of one or two exceptions I think, any judge who serves on a police commission at the present time is a county court judge.

So in small three-member police commissions, the judges have been invaluable as commissioners in assisting in the administration of the police forces, as I have mentioned; and I agree with the honourable member that it should be optional. I think, probably, because of the fact that they are no longer able to accept any remuneration, the number of judges who will sit on police commissions will become very small.

The only other point I would like to make is in relation to the Sunday-closing legislation. This is something I dumped on Mr. MacBeth's lap back in 1975 after a number of meetings across the province dealing not only with Sunday closing but uniform store hours. It couldn't be said any better, really: it was a jungle. It was very controversial; it affected the whole retail community in this province in one way or another. Despite the habits of small stores it is remarkable that we got to the stage where we were able to bring in legislation that has worked so well, outside of some of the points that were raised this morning.

It has been as far as legislation of that type is concerned, a success story in my opinion and, of course, some credit should go to the retailers themselves who have accepted the legislation and have attempted to comply with it and abide by it and make it work. But there are little areas, whether it's a market gardener or a pet shop or what have you, that should be looked at again. The whole area of Sunday closing, because of the type of society we have today with various faiths and backgrounds and the fact that some people celebrate their sabbath on Saturday and some on Sunday, was all part of the politics of attempting to arrive at the best type of legislation. For the most part it's been a great success.

I wish to point out that my predecessor was the one who brought in this legislation, piloted it through the Legislature, allowed certain amendments that made sense and, as a result, it's been pretty much a success.

**Mr. Lupusella:** I don't want to emphasize the same principles which I raised in my opening remarks. By the way, I'm really pleased to hear that at least the former minister is endorsing one of my concerns in relation to police identification.

We have a problem with some police forces and we are looking for recognition by the minister in order that those loopholes which exist within the present structure are going to be solved once and for all. I disagree with the member for Carleton that we have too much legislation. I don't think we are aiming for the abolition of legislation and law enforcement, which is supposed to come from the police force.

I think our position is a simple one and what strikes me is the fact that it's hard to be understood. We are claiming law enforcement but in the meantime we are looking for a better human relation between the public and the police force. Therefore, the police attitude, which we had the opportunity to see in different newspapers in relation to their activities, is something which must be solved once and for all.

I really don't know how to emphasize this particular concern that we are for law enforcement but policemen should understand that they are not judges on the street while they are enforcing the law. The fact that they are spending 80 per cent of their time just enforcing present legislation in relation to traffic violations disturbs me, because only 20 per cent of their time is spent fighting criminal activities and organized crime. Where's the balance?

When police spend 80 per cent of their time in this way, the public is reacting to the way in which they are enforcing the law. In my opinion, it's a question of training, even though you don't want to admit that. That's where the main problem is. I'm not accusing the police officer per se who is receiving some kind of training which is not reflecting the way he is supposed to deal with the public.

We have problems in urban areas. We won't find problems in northern Ontario where there are just small communities, because the impact of the police force on the public is less than the time which the police force is spending in big cities, which is very understandable. There is no sense in denying the fact that problems exist in relation to police attitudes. Let's leave the opportunity to the judicial process to make sure that justice is going to be accomplished. Don't leave this opportunity to the police to use some other power in the implementation of law enforcement. It is a simple principle. We are not saying that from now on police officers shouldn't go around and find out whether or not the law is respected by the public. But there are ways in which the police force can enforce the law.

Let me share with you the public's perception of the police force. Let's cite, for example, police officers who put tickets on cars while people are sleeping. That is something which bothers me. I don't think the police force is going to have a good public image there. In particular situations related maybe to different municipalities, people do not have land or a garage where they can park their car. If those municipalities are using the police force to raise extra revenue from tickets, because people are leaving their cars in front of their houses, I think they should do something about it in order that people won't be penalized. The public perception, in Metropolitan Toronto in particular, is based on the fact that they see the police force as a way of increasing revenues either for the municipal government or the provincial government. I think the minister should get in touch with those municipalities and say: "Why don't you solve those problems because otherwise we need the involvement of the police?"

Municipalities are looking for extra revenues and they are using the police to penalize people. It is as simple as that. I think it is unfair for the majority of workers when they have to go to work around 5 o'clock in the morning to see a \$5 ticket on the car. It is a responsibility of the municipality to find different ways of increasing revenues and not to use the police just for that, while people are sleeping, especially among the ethnic community. That is really a terrible public image which the police have that, while people are sleeping, their cars are ticketed. Where do they have to leave those cars?

We have those problems. If the public are complaining about the police attitude in different areas, they are right. I sympathize with those concerned.

**Hon. Mr. Kerr:** I just want to make clear that you are not suggesting people are sleeping in their cars. They are sleeping at home and their cars are out in the street.

**Mr. Lupusella:** Of course, that is understandable. The former minister emphasized the particular incident of the Fleck strike. I have to disagree with his comment because 800 OPP were used on that particular strike just to solve the poor labour relations law which exists in the province of Ontario. Again, this is a matter of the government's responsibilities so that they won't put the police force in those particular situations to solve the results of the strike.

[12:15]

Last year we had a nasty strike. If you recall, the particular incident was related to an Ajax coffee plant in which massive involvement of the police force was used in that particular strike. It is time this government cleaned up the labour relations laws so that at least the involvement of the police in a strike is clear and will not alienate the public perception by the way in which they are trying to resolve the situation. It is a matter of the government's responsibility. You are running the show in the province of Ontario—not you in particular, but your party. The Minister of Labour (B. Stephenson) should feel such responsibility to try to do something about it because it is affecting your ministry as well.

There is a lot of money spent in this ministry. By raising these concerns and these particular loopholes, I think the public at least has a right to know where this money is spent and why it is spent. We are dealing with more than \$167 million just in your ministry alone, if I am not wrong in my figures. The public is especially concerned about how we spend this money.

In your opening remarks, you raised the particular item that in the 1978-79 estimates for your ministry you requested an increase of \$20 million. By following the pattern of your opening statement, that \$20 million is being spent just on salary increases. I don't see that much money is being spent to improve the existing programs and the kind of programs you are talking about, which were raised by us in the previous estimates in relation to community officers, and to improve the existing structures undertaken by your ministry.

I have a particular concern about the OPP communications system. It seems the main objective is just to replace the current system that is 30 years old. You stated it will offer great benefits to residents of all regions of the province, particularly in northern areas. My question is, is the new system based on the replacement of new machines to be used by the OPP, or do you have a completely different structure in mind to replace the old one?

In relation to the Indian band constable program, which has been increased by \$1,430,000, I would like you to comment on whether or not the band constables will receive the same salaries as the regular OPP. I raised this particular concern in the previous estimates and I would like you to comment, as this issue was raised by a lot of chiefs in northern Ontario. At that time, in the contract that was signed by the province and by the federal government there was

some imbalance between OPP salaries and those of the band constables. I would like you to give us more details about this contract. If possible, I would like to see a copy of the contract. I don't think there is any particular secrecy on that contract which was signed between the province of Ontario and the federal government. So I hope you are going to do that.

Another concern of mine is based on the citizens' complaint bureau—the new bureau which is going to deal with this issue. I am not completely pleased about the bill in the way it was presented. It doesn't give me the idea—nor does it give the public I am sure—that a really independent investigation is going to be initiated through the structure which is incorporated in that bill. It seems that the police force somehow is pursuing some sort of investigation which is not—I wouldn't call it an independent structure. Again there is the police involvement in the structure suggested by that bill. I want to share with you my personal dissatisfaction and I am sure you have also received letters from the Canadian Civil Liberties Association emphasizing this point.

I am pleased about the approach which is going to be used by the coroners' office that when a worker dies in the mines an inquest will take place. Again I want to know from the minister whether or not the same pattern is used when a worker dies on the job—that an automatic inquest is going to take place. Or are we just dealing with the workers who die in the mines? I want to know something about it because I think at the moment this provision is not incorporated in the coroners' inquest in cases of fatal accidents. I would like you to incorporate also those workers who die on the job in the province. When those fatal accidents take place I would like to see a coroner's inquest. I would like to hear your comment about it because I don't see the particular distinction between miners and regular workers who are not working in the mines.

In my opening remarks I expressed my dissatisfaction that when you signed the contract with the federal government about the band constables you didn't make a ministerial statement in the Legislature. I think it involves money coming from both the federal government and the provincial government. I was expecting that at the end of March—I think it was March 31 when the contract expired and you signed a new one—that you were going to make a ministerial statement about that.

Something is bothering me and I think this particular concern was raised by other mem-

bers as well. Why do the chiefs of police make particular statements from time to time? If you read those articles in the newspapers, they take positions about particular issues which should be left for the minister or politicians to comment on. For example, I have read articles in relation to capital punishment. Who is giving Mr. Givens, for example this power to make those public statements in relation to public issues that he is for capital punishment and that the police force is particularly concerned about it.

I think those comments should be left to the minister in the Legislature, instead of giving such people an opportunity to state the position of the police force. I don't like their approach. They are making public statements which involve the police force, when actually they are not running the police force. The minister is responsible for the police force in the province of Ontario. You should be responsible. You should make those statements, which reflect the position of the government as well, in the Legislature. You should not be playing ping-pong games, using those chiefs of police or appointed people to raise particular public concerns like capital punishment.

**Mr. Lawlor:** Particularly if they regard themselves as a quasi-military setup. Everyone knows that in a democracy, military chiefs of staff exercise great neutrality and tact, let's put it that way, in these matters.

**Hon. Mr. Kerr:** Especially when they are talking about nuclear warheads.

**Mr. Lawlor:** Yes. We had a British general recently in Moscow who made some statements, and certainly he was told not to do so.

**Mr. Lupusella:** I am pleased that some of Pitman's recommendations have been analysed by the minister. The police force is going to be deeply involved on that particular issue to fight racism. I think we have to wait for the results of the police involvement to make sure no incidents of racism take place, particularly in Metropolitan Toronto and around the province of Ontario.

In his opening statement, the minister also stated that the Ontario Police College in Aylmer is emphasizing the importance of human relations. I don't agree with this statement. I didn't notice much stuff on psychology, sociology and human relations in the background material which I received at the college. I don't know how human relations can be improved without sociology and psychology courses to help the police officers to understand the public better.

[12:30]



I realize the former minister would never agree that this paramilitary course, which is portrayed and is taught at the college, is perceived by the public. I don't want to emphasize the same principle because last year in the estimates we had some sort of disagreement to that. The main principle and the basic principle which I'm claiming is law enforcement, yes, but there are ways in which law enforcement is supposed to take place when police officers are going to meet the public. That's really important because if we are going to get a favourable response, I think the public is going to have to have a better respect for the law. I think the present minister should take that into consideration.

With this, I want to conclude my brief remarks so that we can get to the core of the estimates after the minister gives me a reply about particular concerns which I raised.

**Mr. Chairman:** I have a few other speakers on the first vote, Mr. Lupusella. I'm going to ask the minister to reply to you and then call on Mr. Bradley and Mr. Davison. In the case of anyone else who wishes to speak on the first vote, we have half an hour before I'm going to take that first vote.

**Mr. Lawlor:** What is our procedure?

**Mr. Chairman:** Our procedure is to alternate between parties.

**Mr. Lawlor:** As to time.

**Mr. Chairman:** At 1 o'clock we will have approximately 12 hours and 40 minutes left in the estimates of this ministry.

**Mr. Lawlor:** We'll be sitting this afternoon?

**Mr. Chairman:** No, we will not. If some member wished to move that we sit on Wednesday afternoons, it would be an appropriate motion—

**Mr. Lawlor:** Oh, perish the thought.

**Mr. Chairman:**—that could be considered by the committee.

**Hon. Mr. Kerr:** I think we should consider that next Wednesday, don't you?

**Mr. Chairman:** The minister has indicated that perhaps that should be considered next Wednesday. I hope that some member then might move that next Wednesday to get it on the table.

**Hon. Mr. Kerr:** Otherwise, we'll be here in July.

**Mr. Chairman:** The problem with this committee is that we are dealing with some complicated bills. We've also been assigned a number of private bills. The minister may well be correct in saying that.

**Mr. Ziembra:** On a point of order: Why don't we cut down the time with regard to

the securities bill we have and concentrate on this ministry? It seems to me we're wasting an awful lot of time on that bill. If we could limit debate on that, then we could get to some agreement on other matters.

**Mr. Chairman:** No, I don't intend to limit debate on any bill, Mr. Ziembra. I think a bill is quite different from estimates. Every member who wishes to express an opinion on a bill has a right to do so, be it in the House or in committee. I will not make that kind of a decision, particularly on three very complicated bills.

**Mr. Ziembra:** Perhaps we could take a few minutes from the securities bill and give that time over to the Solicitor General's estimates.

**Mr. Chairman:** In fairness, Mr. Ziembra, at the beginning of this session, the House leaders tried to get various ministries to come before us at a time before we were assigned bills. There was some reluctance by any ministry to come and present its estimates. The Justice field estimates are now backed up and that's too bad. If any one of those ministries had come forward, they could have had their estimates over with before we were assigned bills and this committee could have been sitting.

**Mr. MacBeth:** I would move that we sit next Wednesday afternoon at the decision of the chair. That will allow you then the opportunity to sound out all people involved between now and Wednesday, rather than trying to decide Wednesday morning whether we meet Wednesday afternoon or not.

**Mr. Chairman:** Can I at least sound out the members of the committee who are here now? How many of you would like to sit Wednesday afternoon? Please show. There are four in favour and two against. I'll sound out the other members.

**Mr. MacBeth:** Leave it at your discretion is what I'm saying. But if you leave it and announce it next Wednesday morning, the chances are you won't have people ready to sit Wednesday afternoon.

**Hon. Mr. Kerr:** Very briefly, I would like to deal with the member for Dovercourt's remarks, some of which were getting a little repetitious.

He remarked that policemen are not judges on the street. In fact, that isn't entirely true. There's a great deal of discretion exercised by a police officer in enforcing the law, whether it's traffic offence or any other type of offence.

He mentioned again the breakdown in time: 20 per cent of the time on criminal actions and organized crime and 80 per cent

on other things. Those are very loose percentages. The fact is that a police officer has to be required to handle any situation when he is out on his beat, patrolling a certain particular area to which he is assigned.

I don't know if they're required to have split personalities or dual personalities but they certainly have to have a great deal of versatility. Regardless of whether the situation is one of looking after a cat that may be on a roof or of being involved in a domestic quarrel or a more serious offence such as robbery, the police officer has to be trained to look after all those situations. They don't pick and choose.

I don't agree with the point the honourable member is making over and over again, that they are over-reacting or overpowering in enforcing the law. The situation may be different in his riding, but I think the public generally supports the police. The public generally supports the image of the police, the type of training they get and the type of duties they're required to carry out. To me, their motto is entirely accurate: They are to protect the public; and that is what the average citizen, particularly in our urban centres, requires.

**Mr. Ziemba:** Protect and serve.

**Hon. Mr. Kerr:** Protect and serve, yes.

The honourable member used two examples, and I think they are related. He talked about ticketing cars that are parked on a street, and he referred to the Fleck situation. All I can do is remind the honourable member that the police did not enact those laws. The police were not in the Legislature or in a town or city council when those laws or bylaws were passed. Their job is to enforce them.

Sometimes they've been criticized in the past for using too much discretion in enforcing some of these laws; in other words, they weren't uniformly applied and, therefore, they were accused of discrimination. If the metropolitan council for various reasons feel that a certain side of street should be posted as "No Parking from 6 p.m. to 6 a.m.," that is not the decision of the police. The police are required to enforce those laws.

The same goes for the situation at Fleck involving a labour-management dispute. The police are not particularly happy about being in the middle in situations like that. They don't like those particular chores. They don't want to be involved in picket lines. But their job and their role is to preserve and protect. There's certainly no role where I, as Solicitor General, can tell the police, "Don't ticket such and such a street, or "Stay away from picket

lines and do not carry out your role and responsibilities."

There is a terrible oversimplification of that. It starts to become a matter of degree as to when they should pull back and when they should enforce; what laws should they ignore and what laws should they enforce? I don't think the police should be asked to make that type of judgment at all. They should apply and enforce the law in as uniform, fair and proper a way as possible.

I might ask Deputy Commissioner Erskine of the OPP to comment in respect to the remarks of the member for Dovercourt dealing with the OPP communication system that we are trying to put in place, starting with a \$2 million budgetary item this year. I wasn't quite sure what the honourable member was asking. He asked if the new system was replacing new machines or a new structure. Would you like to comment on that, Jim?

**Mr. Erskine:** Mr. Chairman, 30 years ago when the first communication system, our present system, was installed in the Ontario Provincial Police, it was described at that time as the largest FM radio network in the world, because of the vast distances and the number of locations where the radio equipment had to be installed as well as in all our vehicles.

Over the past 30 years the system has developed problems with the growth in the size of Ontario and our added responsibilities with the growth and the greater amount of traffic, to the point that today we have serious overlapping in southern Ontario. I should say this is a single-channel system where everybody comes in on the same channel. If five cars have an emergency all at once and they call in they all come in on top of each other and blank each other out.

Over and above that, because of mineral deposits and other problems with blank spots in our system, there is a serious problem in northern Ontario where cars can't get in. For instance, on the new road going from Sudbury through Gogama to Timmins there are places where we are unable to do anything with our present equipment to get communication. This is serious when you come to a serious accident and you can't call back in to get emergency equipment.

The interference on our present system has grown badly over the years. We get more Missouri state police calls on our radios some nights than we get OPP calls because we are both on the same frequency. The FM type of communication lends itself to a skip, and when the weather is right the skip from Missouri comes in stronger than our own signals.

What has happened is, in the past three years a study has been made and we are very concerned that we get a system that will correct all these weaknesses, and also a modern system that will last for perhaps 10 or 12 years. The average police department of our size has probably had two or three other radio systems over 30 years, so you can get an idea that we want to get the best equipment so we don't have to spend more money and get further equipment in perhaps another 10 years or so. We want equipment that will last a long time.

What we are looking at is a multi-channel interference-free system for southern Ontario with a different system that is compatible and interfaced up in the vast regions of northern Ontario where we service the Indian reserves; not only for our cars but also for our boats, helicopters and aeroplanes that fly in on Indian patrols. This system must also have, in the interest of good law enforcement, a compatible channel with all other major police departments in the province, because when there is an emergency and the police departments must work together it is important that they can communicate. That is not happening at the present time.

**Mr. Ziemba:** Will that be a satellite system?

**Mr. Erskine:** No, it is not a satellite system; it is a UHF system.

**Mr. Lupusella:** In other words, the new expenditure is required for new equipment only?

[12:45]

**Mr. Erskine:** For the engineering, the designing, the installation and the equipment, it would be all capital cost.

**Mr. Lupusella:** If I may, Mr. Chairman, can I know who made the study in relation to those particular problems the OPP is facing?

**Mr. Erskine:** There was a study team formed. First there was a steering committee formed, composed of a senior member of our force, a mobile communications engineer from the ministry attached to the Ontario Police Commission, a member of the Ontario Police Commission staff, a communications engineer from Government Services, a consulting engineer who was hired because of his background in this type of communications. The steering committee worked together with a study team that looked into not only our problems but methods for correcting those problems by studying systems that were available, modern technology in communications in other police departments and in other large radio networks.

**Mr. Lupusella:** Okay. The other question is that at the moment there has been an expenditure of about \$2 million; is there any provision in this study about the total cost of this improvement? Do you have a budgetary figure of the total cost?

**Hon. Mr. Kerr:** We are talking about two types, I guess. The deluxe program is, what, \$20 million, is it?

**Mr. Erskine:** We're talking about between \$20 million and \$30 million, according to the study team's original submission. Since that time we have been told that that amount of money is not available and at the present time I am chairing a planning committee that is taking another look at the whole need, setting our priorities, and looking at what we can purchase within the high priority areas to improve communications.

This also includes communication with the general public. Because of the vast area of the province that we cover, there are some areas where the public may have difficulty in getting through to the police. There is the Zenith 50000 number but the general public, no matter how much we educate them, don't always remember that number in an emergency. Part of the study is to improve the system whereby any person who calls the OPP in an area we police will get an immediate answer.

So setting our priorities we are trying now to install a good system compatible with additions at a later date. The \$2 million has not been given to us as yet. I understand that we have to come back to Management Board with a plan. The \$2 million would be part of a five-year expenditure to start the engineering and the designing and the installation. It would also cover the purchase of sites for towers, other than those we have at the present time. A lot of our towers would do, but we would require some extra ones in this system.

**Mr. Lupusella:** Over what number of years should the improvement be completed? At the moment, in view of the government's restraint program, you are only going to get \$2 million over five years. But how many years do you feel it will take to have the new system completely set up—20 years, 10 years?

**Mr. Erskine:** We are looking at several alternatives at the present time. We are looking at five years, possibly less if we can do it. We want to get this system in as soon as possible.

**Hon. Mr. Kerr:** It depends on Jim and Darcy.

**Mr. Lupusella:** I don't know if there is any secrecy; is there any way to release this particular study undertaken by the OPP?



**Hon. Mr. Kerr:** No, I don't think there is any secrecy about it at all. As Deputy Commissioner Erskine has said, there is \$2 million in this year's budget, but we still haven't decided on the total cost. In other words, we haven't got approval from Management Board as to the total cost of the program. I used the word "deluxe," as the deputy commissioner said. If we don't get approval to spend between \$20 million and \$30 million and we are talking \$10 million to \$15 million, then we have to adjust the program accordingly.

It has been said that we are looking to the north for the most part in establishing towers and establishing communications with rather isolated areas where that is really the priority there. Hopefully, it will apply to the whole province. Depending on what the final decision is on the budget, we'll have to wait before we really make a firm or final announcement on the program. In the meantime, there is \$2 million to get the program started this year. I hope that that will stay there.

**Mr. Lupusella:** Following your statement and considering that there is no secrecy on the study, I hope you are going to send me a copy of this study.

I would like to make a particular remark in relation to the involvement of police officers in the implementation of particular by-laws which are enacted by municipalities. What I was talking about was the involvement of the police force to ticket cars at night while people are sleeping. I didn't refer to this particular problem when the people are leaving their cars on an important street, let's say, between 4 o'clock and 6 o'clock, when there is a high congestion of traffic. I was making particular reference to those secondary streets on which people are leaving their cars. The day after, when they have to go to work, they wake up and see they have tickets on their cars.

In my opinion, and it is the public's perception too, municipalities are using regional forces for extra revenue and money. I can't accept the principle that people should be penalized at night when they are sleeping just because they left their cars outside.

**Hon. Mr. Kerr:** Would it be a snow route or something like that?

**Mr. Lupusella:** No, here in Metropolitan Toronto, there is a big problem. They don't have back lanes and they don't have a garage where they can leave their cars. I feel sorry for those people, most of whom are workers. The day after when they have to use their car, they see a \$5 ticket. They have

lost one hour's pay. Why are the municipalities looking for this extra revenue?

**Hon. Mr. Kerr:** My only comment is that it just doesn't seem to make sense that it is a no-parking area. I know there are problems with snow routes, but most streets are not emergency thoroughfares.

**Mr. Lupusella:** I am talking about secondary streets in residential areas. Those problems are not faced in northern Ontario or in the north side of the city where people have driveways and garages. They are penalizing those people and forcing those people to leave those areas because they don't have facilities such as garages and back lanes.

**Hon. Mr. Kerr:** I would suggest that you get hold of the councillor or alderman in that area and ask that the law be changed.

**Mr. Lupusella:** What I am trying to say to the minister is that this is affecting the public image of the police, and he should be concerned about it.

**Mr. MacBeth:** Surely it is a city of Toronto problem. I know the problem well.

**Mr. Lupusella:** But he must be interested because it affects the public image of the police.

**Mr. MacBeth:** It is the city of Toronto council that has the problem and it is not the police's problem. The member is most unfair to be criticizing the Toronto police because they are asked to enforce a bylaw made by the council of the city of Toronto. Let him take his complaint to the city of Toronto council and not criticize the Metropolitan Toronto police.

**Mr. Lupusella:** I'm criticizing because there are repercussions on the police force. It hurts their image. That's why I'm bringing up this particular point. The minister should be concerned about it because it affects the operation of the police force. I'm not emphasizing or raising a problem. Of course, it involves the municipal council. But there is a reflection of this problem on the police force, and that's why the minister should be concerned about it.

**Hon. Mr. Kerr:** What you're saying is that I, as Solicitor General, should be contacting the metropolitan council and saying: "Don't pass bylaws of this nature that require the police to enforce them. Because such laws are mischievous bylaws, they're not necessary and they hurt the image of the police in the community."

**Mr. Lupusella:** That's the criticism that I'm raising.

**Hon. Mr. Kerr:** I accept that point. I think maybe the local police commission itself, if

it feels that way, should point that out to the metropolitan council.

**Mr. MacBeth:** I don't think, Mr. Minister, with all due respect, it's metropolitan council. They're local streets in the city of Toronto, and they'd have people parking on both sides of those streets if they didn't have some kind of control over it.

**Mr. Lupusella:** That's a different topic because there is a violation there.

**Mr. Chairman:** We have three minutes left. I notice a number of the questions that Mr. Lupusella asked could be dealt with under the appropriate item. Particularly, I'm thinking of the coroners' investigations and inquests which are on the next vote. I'm wondering if the minister could, perhaps, note that.

We do have Mr. Bradley, Mr. Davidson and Mr. Sterling, and I think it's only fair that they get in at least one question.

**Mr. Bradley:** Thank you, Mr. Chairman. I don't know if I can cover the territory that I would like in two minutes but I'll ask the one question, as you've instructed.

**Mr. Chairman:** Unless I hear a motion to adjourn. Of course, we could conceivably have one o'clock stretched an extra half hour.

**Hon. Mr. Kerr:** Oh, I've got to go to cabinet.

**Mr. Chairman:** He's got to go to cabinet.

**Mr. Bradley:** All right. I'll ask one question and it is in one area. It deals indirectly with the ministry. I'd like to get the comments of the minister on the proposed changes to the Mental Health Act or, at least, the act that is governing the amount of time required—the 72 hours as opposed to the 30 days—to hold people who might be committing violent crimes, and the opinions of the police departments as expressed through your ministry on those changes. I understand there is great concern, particularly in northern areas where you might not have one psychiatrist available at a specific time, let alone two. Rather than go into detail, perhaps, I can get the comments from you on that aspect.

**Hon. Mr. Kerr:** There's been some, shall we say, unofficial comments made to me in respect to this legislation. The general feeling was that the 72-hour period was too short; it wasn't practical, as the honourable member said, in certain areas.

There hasn't really been that much comment, certainly officially, from any police body within my ministry, that I'm aware of; but there is a general feeling that the 72 hours should be extended. Whether it should be back to the 30 days or not is another matter. But, certainly, the proposal that has

been put to the Ministry of Health that it should be about a week is more acceptable to them. I'll put it that way.

**Mr. Bradley:** It also dealt with the definition of whether they were going to commit a violent crime. Is there any concern about the specific wording there?

**Hon. Mr. Kerr:** I think there very well may be other legislation that could be applied in the event that there is reasonable information, or reasonable evidence that a violent crime may be committed. It depends, of course, a great deal on the person concerned—if that person has a record of any kind. But you must remember you're talking about somebody who hasn't been charged and convicted in many instances so there is a question of civil rights here.

[1:00]

There was some concern expressed in relation to the 72 hours, but there wasn't that much of a suggestion as to what it should be. In many cases they felt the law shouldn't be changed at all, particularly in the north, but they were concerned about the proposal of 72 hours and the fact that there wasn't any other provision that sort of compensated for shortening the period so much.

**Mr. M. N. Davison:** Can you tell me, Mr. Minister, under what vote it would be proper to discuss the regulation and licensing of private investigators and private security firms?

Secondly, before we get to that vote, could you supply me with a copy of any guidelines your ministry might have dealing specifically with a company like CIB in Hamilton and the question of the SWAT team that they were going to set up? I think I'd like to discuss that with you later on.

**Hon. Mr. Kerr:** That can all be under the OPP vote.

**Mr. M. N. Davison:** Okay. Thank you.

Items 1 to 3, inclusive, agreed to.

**Mr. Chairman:** Shall item 4 carry?

**Mr. Lupusella:** Wait a minute. We're supposed to adjourn.

**Mr. Chairman:** No, Mr. Lupusella, if you recall, I said earlier that I would like to finish vote 1601 by one o'clock. I'm sure we can use some flexibility later on if there is some terribly important point that you wish to bring up. We will allow the minister to answer the questions that you have raised on the first vote.

Items 4 to 7, inclusive, agreed to.

Vote 1601 agreed to.

**Mr. Chairman:** Administratively, I will be in touch with the House leaders to request whether in any way it would be feasible for us to sit on Wednesday afternoon to consider estimates as well as on Wednesday morning. Subject to the minister getting back to me

and telling me that he is able to be with us Wednesday afternoon, I will then take a poll of the members. If all of that works out, we may be sitting Wednesday afternoon.

The committee adjourned at 1:04 p.m.

## CONTENTS

Wednesday, May 10, 1978

Ministry administration program .....	J-27
Main office .....	J-27
Adjournment .....	J-51

## SPEAKERS IN THIS ISSUE

Bradley, J. (St. Catharines L)  
 Davison, M. N. (Hamilton Centre NDP)  
 Handleman, S. B. (Carleton PC)  
 Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
 Lawlor, P. D. (Lakeshore NDP)  
 Lupusella, A. (Dovercourt NDP)  
 MacBeth, J. P. (Humber PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Roy, A. J. (Ottawa East L)  
 Ziemba, E. (High Park-Swansea NDP)

### From the Ministry of the Solicitor General:

Erskine, J., Deputy Commissioner (Operations), Ontario Provincial Police  
 Graham, H. H., Commissioner, Ontario Provincial Police  
 Wilson, F. L., Assistant Deputy Minister







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# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Wednesday, May 17, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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# LEGISLATURE OF ONTARIO

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WEDNESDAY, MAY 17, 1978

The committee met at 10:10 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

On vote 1602, public safety program; item 1, program management:

**Mr. Chairman:** Mr. Handleman, your first question.

**Mr. Handleman:** What question? I didn't even have my hand up.

**Mr. Chairman:** I'm sorry. I thought you were asking a question. Anyone else on item 1?

**Mr. Handleman:** Mr. Chairman, I was having a conversation with my colleague. This is not a classroom. If you're calling me to order, I would like you to do that.

**Mr. Chairman:** I did call you to order. You didn't pay attention. I assumed then you might pay attention to a more direct approach.

**Mr. Handleman:** Not necessarily.

**Mr. Chairman:** Do any members have any questions?

**Mr. Lupusella:** Mr. Chairman, on program management there is a reduction of \$293,000. Why is there this reduction and how is this program affected by the reduction?

**Hon. Mr. Kerr:** Last year we had an item in program management called "emergency operations." There was \$300,000 in an account for that. This is a sort of hangover, shall we say, from the old emergency measures operation. We established the lead ministry concept in order to deal with certain emergency situations involving two or three other ministries in the government. We had \$300,000 sitting in a fund and very little of it was used. What we have done this year is just put \$1,000 in there and we will apply to Management Board for any additional funds we may need, depending on what emergency situations arise during the year. There's a deduction there of \$299,000, but with one or two increases offsetting that, we have a net reduction in that program of \$293,200.

**Mr. Lupusella:** I guess this item 1 was also dealt with last year in the previous estimates. Did you use these funds for emergency pro-

grams and can you name some of those emergency programs?

[10:15]

**Hon. Mr. Kerr:** Last year we used part of the funds when there was a serious fire in Cobalt. We used \$30,000 for that. We also used some in Moosonee where there was some flooding in the last fiscal year. I guess the amount spent from this fund was under \$100,000.

There is no problem in acquiring the money. It's not as if we're being denied this money. But because it involves two or three other ministries, when there is an emergency situation there is an understanding that upon application to Management Board the funds will be available. Rather than having it as a large bookkeeping entry in our budget, we thought it would be more realistic not to include it and naturally that would help to keep our total estimates down to a reasonable level.

**Mr. Lupusella:** What are you doing about fire protection for unorganized communities? It seems that in northern Ontario they have a lot of problems. A coroner's inquest recommended that the Ontario government make subsidies available to unorganized communities. This particular case mentioned the town of Hurkett.

**Mr. Chairman:** Mr. Lupusella, do I take it that you are on item 3 now?

**Mr. Lupusella:** Yes.

**Mr. Chairman:** Before that, may I ask if anybody else has any questions on item 1, program management?

**Mr. Sterling:** I wanted to inquire of the Solicitor General if his police forces have any formal ties with the block parent groups. Is there any association between the police and these groups?

**Hon. Mr. Kerr:** Yes, but it is not a formal association. The block parent group's team policing, and many of the other community activities involving the police are all inter-related with the police forces. The police assist the block parent groups in many ways. They run educational programs and help organize them—they set them up in their original state. I am not aware whether there

is any financial contribution from the police to the block parent association. But in an effort to organize the group—sometimes they are registered organizations—the police assist in any way possible.

The police are, of course, aware of the members of these groups so when there is communication, in either direction, the police come to their assistance, whether it is an emergency situation or otherwise. They assist generally in that way—talking to the children of a group of parents who have an organization and things of that nature.

There is no question about the involvement of the police in every way, from instructing the block parents in the basic provisions of the Criminal Code to make sure they don't, shall we say, take the law in their own hands, to keeping the police in the picture when there are problems in the neighbourhood.

I'm aware of a situation in the London area where many of the block parents have gone around in the evening in a cruiser with a police officer when he's out on patrol in that neighbourhood, probably more from just a getting-to-know-you point of view and also making sure that the police officer himself is aware of the makeup of the neighbourhood and the general activity of that organization.

**Mr. Sterling:** I'm very supportive of their program. In fact, in our front window we have one of those little red signs. One of the things that was brought to me by the coordinator of our area this past weekend in relation to that program was, having returned from a conference they had here in Toronto this past week, there was some concern by the block parent associations as to the potential liability of one of the volunteers in placing a block parent sign in their window.

I guess many organizations do feel a great deal of hesitation about their volunteer services and the potential liability they may find themselves in; for instance, if a block parent left the sign in the window and went out or was in the garden and a child came to the door and was unable to gain entry.

I was just wondering, instead of forcing all these particular block parent associations into the position of having to incorporate a company and having to formalize their associations probably beyond any need, whether it wouldn't be a good idea for some ministry—probably your ministry would be most suitable—in some way to limit the liability of these very worthwhile volunteers in terms of what might happen.

I have a great fear of these organizations getting too organized and too formalized, be-

cause I think they lose a lot of the enthusiasm they have once they get into formal structures. This is the feeling of this particular woman. I think it would be a worthwhile thing for your ministry to consider. Would you like to comment on that?

**Hon. Mr. Kerr:** One of the things that's a problem with a lot of community associations of this kind, volunteer organizations, is that they grow, they become more and more involved and the next thing is they're making application either for registration or even incorporation. They get a local constitution, depending on the makeup of the neighbourhood. If there's any incidence, for example, of child molestation, that sort of thing, then you find the organization becomes more active and stronger.

We've had applications this year for financial support. As you know, if you give a grant or subsidize one municipal block parent program it's going to have to apply across the province, and the cost could be quite extensive.

I'm not sure why the particular incident to which you refer should be a great concern. I suppose if there's a sign in the window that say Block Parent and some child goes to that house and the door is locked or the householder is not able to respond, I think it would be questionable whether there would be liability in a volunteer organization of this kind, depending on the reasons why there wasn't a response.

There is a natural tendency to grow and to develop a structure and become more and more organized, regardless of what the organization is, and I am just hoping that they can stay with the original intent, to be local, be strictly neighbourhood. It is not necessary to have a costly operation.

I would also suggest that they not necessarily look to the province and other levels of government for funding. I think the volunteer aspects of a program of this kind, the role that the parent plays, should not be a costly type of thing. They don't need equipment. I am not aware that they need the machinery of setting up some sort of administration. I agree with you generally, they should stay as simple as possible, but at the same time if there is any implication of liability in the event of the situation you are talking about, maybe there should be some way to limit that.

**Mr. Sterling:** Yes. I agree with you in terms of my legal background. In agreeing with your legal opinion as to what the potential liability of these individuals might be, I think it is very limited. However, as you are aware,

sometimes when groups grow and get legal advisers, the law profession tends to be small c conservative and so far from reality that it unfortunately leads many of these people astray.

(This is one of the things that came out of this particular conference. There was a great hue and cry that everybody needed to be incorporated. In helping this particular individual out in our area, I said I didn't feel there was a necessity for it because I couldn't see any potential liability.

However, this is the type of thing that continues to arise. As far as I am concerned, I don't think it would have to be a very difficult piece of legislation to protect these people and it would be a recognition of their voluntary service to the safety of our children.

I would also like to comment that at the same time, in my area, which is the township of Rideau and the region, where we are serviced by provincial police, we are receiving excellent co-operation from the police. They have a close liaison with our co-ordinator in our area, and they are quite willing to go into the schools and work with the principals in the education program relating to the block parent program. I think the police are to be commended for their co-operation in this program.

Item 1 agreed to.

On item 2, Centre of Forensic Sciences:

**Mr. Lupusella:** Mr. Minister, in my opinion this operation, as I stated previously, is becoming too costly. Starting from the building when it was first built, and the whole operation itself, there has been an increase in the budget of the whole operation starting from 1976 up to 1979. In 1978-79 there is an increase of \$262,600. Can the minister justify the increase?

[10:30]

One concern I raised last year is that we don't get an annual report from the Centre of Forensic Sciences to find out what really is going on there. We understand what is happening in general terms, but we really don't know what's happening. The best advice I can give to the Solicitor General is to produce an annual report so that we can have a concrete view of the whole operation. I hope the Solicitor General shares this concern.

**Hon. Mr. Kerr:** I am not aware there is anything secretive about the Centre of Forensic Sciences. There is no question that it is a very complicated and very necessary area of our ministry. It involves complicated and sophisticated scientific methods in detecting crime. As the honourable member knows from

his tour of the centre several weeks ago, everybody who is part of it is highly trained in his particular area, whether it is biology, chemistry, document examination, firearms and toolmarks, photography, toxicology.

This is one of the most up-to-date and scientific methods of dealing with criminal activity. I don't know if the honourable member has a personal reference he wants to make with respect to obtaining information. I understand that anybody in the legal profession involved in a case can obtain information about the results of any type of examination or investigation. Defence counsel, I believe, are privy to the result of an investigation in respect of a case in which they may be involved.

As far as an annual report is concerned, we have our own ministry annual report in which we do have a large section on forensic sciences. There is an extensive library in the building on Grosvenor Street. There is also a separate pamphlet, with a red cover, dealing strictly with that branch of the ministry. This is very cursory, I admit, and I am not sure whether any of the information in the library can be lent out or whether a person has to do the reading in the library itself.

I think the honourable member must understand that information from an investigation of certain types of criminal activity must be very confidential ab initio; then, if there are certain legitimate requests for that information, it has to be assessed because if there is a criminal action of some kind, a court action—even if there is a civil action—the information that is in the hands of forensic sciences can make a great deal of difference to a particular case. That's why there has to be some order in the dispensation of information from the centre.

**Mr. Lupusella:** Mr. Chairman, if I may respond to the minister's comment, I didn't make any particular reference to the confidentiality of the investigation. What I cannot settle in my mind is the expensive cost of running such an operation. I'm sure in 1979-80 we are going to reach a \$3 million budget for the Centre of Forensic Sciences. I would be interested in learning from this annual report the kind of operation which is going on there. I'm not particularly concerned about the content of the investigation or names of people. How can the minister justify this increase of \$262,600?

I realize they are skilled people working in that building. I found out personally when I had an opportunity to tour the building with the Solicitor General that there are ex-



pensive machines in the centre, but I really don't understand how this money is expended there. I realize the centre is useful in the course of investigation of criminal activities taking place in the province of Ontario. I share this view. What I don't share is the cost, and I would like to have a concrete answer from the Solicitor General to justify the almost \$3 million operation of the centre.

**Hon. Mr. Kerr:** As the honourable member has mentioned, there's an increase of \$262,600 between last year's estimates and this year's estimates. That is about 10 per cent. It seems a fairly reasonable increase. I can go down the list in detail with respect to some of the increases. For example, in total salaries and wages, there's an increase of \$90,300. There's an increase in employee benefits of \$109,800. As far as the first increase is concerned, this is due to increases in salary awards. This is a normal thing for all employees of the government, and that includes, of course, the benefits increase from 13.2 per cent to 17.7 per cent.

Dealing with such items as accommodation and meals, transportation, air travel, this is because of an increase in the number of court appearances that people from the centre have to attend all over the province. There has been a marked increase over the last three or four years in the activities of the centre. More and more counsel are relying on our people to give evidence in court cases and therefore that requires a higher budget.

**Mr. Wilson:** Cases are longer now too.

**Hon. Mr. Kerr:** Cases are longer, as Mr. Wilson says. There are so many items, and this is a big branch. A \$500 increase may not have that much effect, but overall it totals up. In breathalyser equipment and supplies, for example, there was an increase of \$15,000; in chemical analysis supplies, an increase of \$22,500. There have been some decreases as well, you'll be happy to know.

As for supplies and equipment, there is naturally an increase in every type of equipment that the centre buys, as well as federal sales tax on certain supply items. You may be happy to know that there is one fewer person working there than last year. Last year there were 95; this year there are 94. I suppose that's because of our constraint program.

As I say, the increase is something under 10 per cent, which seems reasonable for a branch of the ministry that, because of its very nature, is becoming more active and more costly to operate.

**Mr. Lupusella:** The minister is answering the kind of content I would like to see in the

annual report that I made reference to. I think the minister has nothing against producing that kind of information in the annual report. As far as I'm concerned, I didn't make particular reference to the kind of investigation or the investigation itself; it's a justification of the operation taking place, and I think the minister has nothing against that.

**Hon. Mr. Kerr:** Mr. Lupusella, you used the phrase that what you wanted in the annual report is the kind of operation going on there.

**Mr. Lupusella:** Operation in relation to the kind of information which you just gave me.

**Hon. Mr. Kerr:** I would hope that if that isn't contained in the annual report or the special pamphlet dealing with the centre, certainly it's available in other documentation within the ministry.

**Mr. Lupusella:** How many employees are working there?

**Hon. Mr. Kerr:** Ninety-four.

**Mr. Lupusella:** In relation to the equipment, do you have a total figure of how much was spent on equipment since the centre was built?

**Hon. Mr. Kerr:** I don't have that here. We'd have to get that for you. You mean the total amount in the new facilities?

**Mr. Lupusella:** Yes.

**Hon. Mr. Kerr:** I'll have to get that for you.

**Mr. Lupusella:** In this regard, the annual report is becoming useful for us. I hope you are going to consider this recommendation. Another point I would like to raise in relation to equipment is, from which country does this equipment come—the United States, or Japan, or another country?

**Mr. Lucas:** Most of the equipment comes from the United States. There is a very limited market in Canada and as a result most of the equipment comes from the United States, from the United Kingdom, Germany and Japan in terms of microscopes. There is really no large Canadian industry in this area.

**Mr. Lupusella:** This is another point I would like to explore. If there is a great amount of money spent on equipment, is it difficult to produce this equipment here in Canada? At least we would get the benefit of employing people living in the province of Ontario. We could develop our own technological expertise in that field. I'm sure that in the Solicitor General's ministry there is a large amount of money spent on equipment, and I do not appreciate the fact that the equipment is imported from other countries like the

United States or the United Kingdom when we can start producing that equipment here in the province of Ontario. Can I have a comment on that?

[10:45]

**Hon. Mr. Kerr:** It's a matter of starting a business. This is a unique type of equipment. It is not something that is produced on the assembly line for this particular purpose. The use is not widespread. We don't have forensic science centres in every community in the province. I am sure if there was a market here there would be a plant which would be manufacturing this equipment. As I say it is very costly. I don't think Mr. Lucas is implying that every piece of equipment in the offices on Grosvenor Street were imported. I am sure some of that equipment has been manufactured domestically but it's somewhat similar to hospital equipment, a lot of that is imported. It is also because of the question of demand. I am sure you are not suggesting the government get into the business of manufacturing this equipment.

**Mr. Lupusella:** No, I am not saying that.

**Hon. Mr. Kerr:** So it is a matter of the marketplace and some company saying there is a market for this equipment and we should manufacture it here or maybe establish a branch plant in Ontario.

**Mr. Lupusella:** That's the point I wanted to arrive at. I am sure the Solicitor General and this government are aware that a lot of electronic businesses went bankrupt in the past few years. If the government is going to approach those industries and companies located elsewhere, like the United States, the United Kingdom, or Japan and involve them in a venture program to manufacture that equipment here, it may not solve our economic problems but at least we can develop expertise in this particular field.

The Solicitor General is spending a lot of money in acquiring new equipment for the OPP, for the police force, for the centre. I think it is time government took this into consideration and moved in that direction instead of allowing a lot of plants to go bankrupt because there is no market and therefore no production.

**Hon. Mr. Kerr:** I might just say, Mr. Lupusella, that the total amount in last year's budget for supplies and equipment was \$250,500. This year we've got an estimate of \$289,300. That's less than \$300,000. Included in that equipment is office furniture which I am sure we acquire in Ontario—typewriters, photo equipment, flashlights and batteries, gasoline and oil, janitorial supplies,

uniforms and equipment, breathalyser equipment and supplies. Where do you buy that, Mr. Lucas?

**Mr. Lucas:** The breathalyser is an American device. We buy them through a Canadian company.

**Hon. Mr. Kerr:** Chemical analysis supplies—do you buy any of that here?

**Mr. Lucas:** Oh yes.

**Hon. Mr. Kerr:** Office supplies, books and periodicals, stationery, printing, Xerox supplies, gas for heating, ammunition. Where do you buy your ammunition?

**Mr. Lucas:** All over the world. There is an Ontario manufacturer and a large part of it is Winchester.

**Hon. Mr. Kerr:** Photo and identification supplies. Is that all imported?

**Mr. Lucas:** Well, no, that wouldn't be. Much of it would be, for example, from Kodak, which is a Canadian company.

**Hon. Mr. Kerr:** Shipping cartons. Don't tell me you import shipping cartons.

**Mr. Lucas:** Those are Canadian.

**Hon. Mr. Kerr:** Motor vehicles.

**Mr. Lucas:** Those are Ontario.

**Hon. Mr. Kerr:** You just have one there—as a matter of fact, you haven't got one for this year.

**Mr. Lupusella:** I am not making particular reference to the new equipment which is bought this year. But if you go back to when the centre was built there is expensive equipment there and I am sure you didn't buy that in the province of Ontario.

In the meantime, and through the years, a lot of businesses went bankrupt. If this government was to set up venture programs between manufacturing plants located in Ontario and plants outside Ontario, for example, in the United States, Britain, or Japan, I am sure we would be able to produce that equipment and alleviate the economic pressure in the province of Ontario.

The same thing applies to the \$20 million to be spent over the next five years on the OPP communications centre. I wouldn't appreciate hearing next year that that equipment was bought from plants located in the United States instead of making an effort to produce it here in the province of Ontario.

**Hon. Mr. Kerr:** It's all coming from Burlington South.

**Mr. Lupusella:** I am pleased to hear that that equipment is going to be manufactured here. That is the general principle that I speak to. I wouldn't appreciate next year

when I raise the question hearing that equipment had been imported.

I think venture programs can be perfectly initiated with plants located outside of Canada.

**Hon. Mr. Kerr:** One point I am sure would be of interest to all: Do you tender for equipment of that kind?

**Mr. Lucas:** For major items.

**Hon. Mr. Kerr:** And do you generally get bids from both inside and outside the country?

**Mr. Lucas:** There are always at least three bids. I shouldn't say always. There are exceptions. Sometimes there is only one supplier of something, but in most instances we get at least three bids.

**Mr. Lupusella:** A final question. Will the Solicitor General send me information on the total costs of equipment since the time the centre was built?

**Mr. Chairman:** Mr. MacBeth?

**Mr. MacBeth:** Thank you, Mr. Chairman. I was interested in a report this morning that the bear or part of the bear that had done the killings in Algonquin Park had been sent down to the forensic laboratory. I didn't know you had facilities for doing pathology on bears. I was wondering just what was happening here whether it was Mr. Lucas' department or the coroner's office.

I know it is current and you may not be able to tell us very much about it for that reason. But what sort of facilities does Mr. Lucas have for dealing with animals in this way—storage and all the rest of it?

**Hon. Mr. Kerr:** Would that be forensic pathology or would that be yours?

**Mr. Lucas:** As of 9:30 this morning there was nothing received, but I would expect, from past experience with this type of case, we would receive the contents of the digestive tract to examine for human tissue.

**Hon. Mr. Kerr:** That is done by your staff rather than pathology?

**Mr. Lucas:** That particular—

**Mr. MacBeth:** Do you do much work in animal pathology?

**Mr. Lucas:** No, we do not.

**Hon. Mr. Kerr:** Only when humans are involved, I would think.

**Mr. Lucas:** Most of the animal work is done at the Guelph Veterinary College.

**Mr. MacBeth:** That is what I thought. That is what I was wondering. Thank you.

**Mr. Chairman:** Mr. Sweeney.

**Mr. Sweeney:** I have a comment and a question. Of all the sections of the ministry,

I would personally loathe this one being cut back too greatly because it seems to be one of the elements that makes possible greater justice in this province, both on the side of the prosecution and on the side of the defence.

Anything that makes that possible should be encouraged. I strongly suspect that at something less than \$3 million, if you would put out the word, organized crime in this province would gladly send you a cheque for one hour of its take and tell you to close up the place. I don't think they like it too much.

The third point I wanted to make there was about the whole business of defence lawyers being able to have access to these particular services. Surely it gives anyone who is coming before the courts a greater sense of confidence that justice will be served on their behalf. I can recall a case in my own community just within the last five or six months where a young man was released from jail simply because of evidence on one or two pieces of hair. I am not going to suggest whether that man is guilty or innocent; that isn't the point at this particular juncture. But the point remains obviously that the man is no longer in jail, and in his sense justice was served by having this kind of technical knowledge.

I have a question, Mr. Chairman. Given that criminal legislation is primarily in the federal jurisdiction, I would suspect the federal government also has forensic science facilities. To what extent is there a co-operation and perhaps even some duplication between provincial operations in this area and federal operations in this particular area, specifically in the criminal level?

**Hon. Mr. Kerr:** The RCMP has labs such as ours. For example, in Toronto, there's a very close liaison between the RCMP and our ministry. They use our facilities quite extensively. Most criminal investigation of any consequence will involve more than one police force in many respects. If it involves the RCMP, it may involve things within their area such as trafficking in drugs, smuggling, customs offences and terrorist activities and things of that nature.

When a crime or an offence has been committed and there's a death as a result of that activity, the RCMP of course would become involved and would use our facilities. I might just say that it's similar in all our joint force operations, whether it involves forensic science people or some type of communication, and whether it involves organized crime and things of that nature.



The RCMP, as I say, because they are a national police force, have labs pretty well across the country in our large urban centres. But, mainly because our centre is one of the finest in the world, they do rely to a great extent on ours in Toronto.

**Mr. Sweeney:** What particular procedures, if any, exist to avoid unnecessary duplication at this level?

**Hon. Mr. Kerr:** Do you want to comment on that, Mr. Lucas?

**Mr. Sweeney:** Are there formal ones or are they informal?

**Mr. Lucas:** They're informal. There is duplication. Certainly the RCMP do have a laboratory in Ottawa; that laboratory is primarily a research and training laboratory, but they do serve the immediate Ottawa area from there. I would say there is no unnecessary duplication, because both of us have no shortage of work and we do co-operate to the extent of almost daily contact between myself or a member of my staff and someone with the Ottawa laboratory.

**Mr. Sweeney:** What percentage of your work would be for defence lawyer purposes as opposed to prosecution? Can you give me a rough breakdown?

**Hon. Mr. Kerr:** I would say—what, about 10 per cent?

**Mr. Wilson:** It may not even be that, Mr. Minister.

**Hon. Mr. Kerr:** It's quite small.

**Mr. Sweeney:** Are there any strings or conditions attached to the defence lawyer having access to the facilities?

**Hon. Mr. Kerr:** No, I understand there's no charge made to defence counsel when they submit material or they require information. The only stipulation we make is that any information we give the defence counsel is also given to the crown attorney concerned in that case, so that—

[11:00]

**Mr. Sweeney:** Both sides have the same information.

**Hon. Mr. Kerr:** Yes, right.

**Mr. Sweeney:** Does it work the other way around?

**Hon. Mr. Kerr:** It's supposed to, I would think.

**Mr. Stong:** I want to bring that up too, but I will in—

**Hon. Mr. Kerr:** I would think that in the whole process of discoveries and the requests for information, whether it's documentation or what have you during the course of a

case, this is available to defence counsel. You may be interested in knowing, for example, in 1977 there were 13 cases where defence counsel submitted material and asked for information.

**Mr. Sweeney:** Just one last question, Mr. Chairman. With respect to the cost figures that were raised earlier, they all seem reasonable to me, except the increased employee benefits. Given the fact that there's a lot of hue and cry around this place about increase in complement and increase in moneys for staff and things like that, what's the cause of an increase of what looks like about 33 per cent in that one item alone, from \$340,000—No, excuse me—

**Hon. Mr. Kerr:** Two hundred and thirty-one thousand dollars.

**Mr. Sweeney:** —from a previous \$231,000—It's almost 50 per cent.

**Hon. Mr. Kerr:** Forty-seven per cent.

**Mr. Sweeney:** Yes, that's the one unusual figure. I was basing the increase on the 1978. I should have based it on the 1977. It's a very large increase. All the other figures seem reasonable, but that one is—Is it a whole new program? What's going on there?

**Hon. Mr. Kerr:** No. The information I have, frankly, is that the increases were due to salary awards, the benefits—

**Mr. Sweeney:** I'm just looking at the benefits line.

**Hon. Mr. Kerr:** I'm sorry. The percentage increases from 13.2 per cent to 17.7 per cent and from two per cent to 3.3 per cent for regular and unclassified staff. Does anybody want to comment on that? Mr. Edwards?

**Mr. Sweeney:** I'm just looking at the one figure of benefits. It's an exceptionally large increase.

**Hon. Mr. Kerr:** Yes, the increase of \$109,800.

**Mr. Sweeney:** Over \$231,000, which is close to 50 per cent.

**Mr. Edwards:** Mr. Chairman, what caused the large increase in employee benefits, which shows throughout our estimates, is that this year there was a percentage increase in benefits alone of 4.2 per cent that were added to the cost for this ministry to cover the unfunded liability of the public service superannuation fund.

**Mr. Sweeney:** Oh, not another one of those.

**Mr. Edwards:** These moneys, in previous years, had been voted in the Ministry of Government Services. This year they are shown in each ministry and journaled back to Government Services.

**Mr. Sweeney:** You're kidding. I thought we had that one with the teachers' superannuation. That's another point altogether then. What pension fund is this again?

**Mr. Edwards:** Public service superannuation fund.

**Mr. Sweeney:** What's the size of that unfunded liability?

**Mr. Edwards:** I'm not aware of the total allocation to that. I believe it was something like \$35-\$40 million last year, but I'm not—

**Mr. Sweeney:** The increase in one year?

**Mr. Edwards:** That was paid by the government last year. As I say, that's in the Ministry of Government Services, so I'm not really aware of the—

**Mr. Sweeney:** That's probably an amortized figure?

**Mr. Edwards:** I can't really answer that, I'm sorry.

**Mr. Sweeney:** It sure explains an increase of that size.

**Mr. Chairman:** For the sake of Mrs. Campbell, who just came in, we're on vote 1602, item 2.

**Mrs. Campbell:** Thank you.

**Mr. Stong:** I just want to follow up on what Mr. Sweeney was asking about with respect to the use of the forensic centre by defence counsel. I understand from your information that fewer than five per cent of the requests for the use of those facilities come from defence counsel.

**Mr. Edwards:** Yes, four or five.

**Mr. Stong:** I'm given to understand as well, that defence counsel certainly are not encouraged to use those facilities, even though they are free, because of the red tape. I remember bringing this up in the last estimates and I asked for your policy on this. I was given to understand that at that time any defence counsel who asked for assistance from the forensic centre must agree to provide the crown with what he finds for the results of his request, whether it be good or bad. But it was not reciprocated from the crown attorney's point of view.

So defence counsel who may be asking for assistance would have to provide the crown with information but in fact crown attorneys who draw on this service—a tremendous facility in fact—did not enjoy the same requirement. Has your policy changed or are you hanging in there with that attitude, in other words requiring defence counsel to provide all information to the crown but not requiring the crown attorney to provide the information to defence?

**Hon. Mr. Kerr:** I am not sure if we have any provision whereby we require the crown attorney to provide the information to the defence. Maybe Mr. Lucas can answer that. But we do have a policy whereby a copy of anything we provide to the defence will be provided to the crown. It's been a long time since I practised law but I can remember in the few cases that I had, there were very few where there was a death involved and I had no problem getting the information from the crown attorney. Whether it was by way of formal notice, by way of examination, a preliminary hearing or what have you, there didn't seem to be any problem getting all the information from the crown that was available to the crown. Whether we should formalize that by way of practice dealing with information from the Centre of Forensic Science is something I suppose we should consider. Do you have any comment on that, Mr. Lucas?

**Mr. Lucas:** My understanding is that at the time this policy was established, which is probably seven or eight years ago, it was established in part on the advice of the Ministry of the Attorney General and the reason for this stipulation was that—

**Mr. Stong:** What stipulation are you referring to?

**Mr. Lucas:** Of requiring defence counsel to give a copy of our report to the crown.

**Mr. Stong:** That's more than I got from you last year.

**Mr. Lucas:** It does give a copy to defence counsel. That was the policy of the Ministry of the Attorney General at that time and I have never been advised that it has been changed.

**Mr. Stong:** I did discuss this last year in these very estimates and I was given the undertaking that it would at least be looked into and corrected. I know it has not been corrected because I have received complaints from defence counsel on this point. I agree with you that at a trial a defence counsel can go through a preliminary hearing and get certain evidence, provided the judge allows the defence to go through, because now the law is that the judge can terminate a preliminary inquiry, saying: "Look, there is sufficient evidence to bring this matter to trial. Therefore, I don't have to hear any more evidence." He can terminate it right then and there; there is a law. Either way the defence counsel is not entitled to go on a fishing expedition, as we used to think we could.

It seems to me it would be very appropriate for this ministry to have a free passing back and forth of information from the forensic centre because we don't want to incur greater cost under the Ontario Legal Aid Plan by unnecessary hearings. Preliminary hearings last a day. If this information was forthcoming, once you realize who the defence counsel is, why not give him that information? The defence counsel is paying for these services as well as perhaps his client, as every taxpayer. It would seem that it is only fair to pass this material back and forth. The stipulation is that no defence counsel or no accused can have access to the forensic centre unless he agrees first to supply the crown with the material. But it certainly isn't that way in return.

It seems to me that it is time we cut down the cost, under legal aid or in the Ministry of Attorney General, of going through unnecessary hearings or prolonged hearings; and this is one sure way we could cut it, because in most cases that are serious, whether they be fraud, whether they be a break-and-enter, whether they be traffic accidents or criminal negligence, there is always evidence from the forensic centre, that could cut a hearing down by an hour or two hours; plus the necessity of having your people come to court for the preliminary hearing. If there were freer passage of information we would be able to save on legal aid costs and court costs.

I would ask the minister to review that policy and alter it so that there can be a cost saving there.

**Hon. Mr. Kerr:** Just on this point, I think you realize that I would have to deal through the Attorney General's ministry, and I am prepared to discuss that with the Attorney General. I am surprised when you tell me that there is any problem. For example, there's a murder case going in Hamilton right now where the provincial pathologist is a defence witness; information that he has is being used by the defence. I am surprised that there is any problem.

**Mr. Stong:** I don't want you to read into this that the Centre of Forensic Science does not co-operate with the defence counsel. That's not my point. My point is that there is no free flow of information from the forensic centre to defence when the crown requests it, and we are incurring costs in court daily by virtue of the operation of this policy. It seems to me we could clean that up a bit. A defence counsel can only do so much. He can prepare himself for trial, for crying out loud, which is kind of important, if he

has this information. I appreciate your statement that you will refer this to the Attorney General, and perhaps we can get somewhere with him too.

The next thing I would like to know is how much, if any, of the budget in the forensic centre is spent on research into areas such as the detection of crime through comparing voiceprints, other nuclear methods of crime detection such as testing of fibres, and new systems that are available in the United States and elsewhere in the world to detect crime, so we are not only relying on things you have categorized here such as fingerprints and chemistry tests. Is there any money directed towards research in this area?

**Mr. Lucas:** There's no money specifically directed to such research. What is directed is staff time, which is another way of saying the same thing. In the past we have tried to devote about five per cent of our staff time to research. In the last two years this has been reduced somewhat because of increased demands of casework and because of constraints. We are probably down to the point where about two per cent of our staff is devoted to research.

You mentioned voiceprints: We do have an ongoing program on voiceprints; we are assessing the capabilities of that technique. We still have some reservations about the validity of that technique. We do have a program we are just going into on the examination of human hair. We have a program going on with respect to drug involvement in traffic fatalities. We do have some program in that area but it is restricted.

**Mr. Stong:** Mr. Chairman, may I just inquire into this program? Mr. Lucas, when you say staff devote certain hours to research, does this involve their travelling to other areas or other jurisdiction where these things are enforced? How do you conduct the research?

**Mr. Lucas:** Initially, if we were aware that a program was going on somewhere else, we would try to send someone there to review it and to establish what it is that we need to do ourselves in order to convince ourselves of it; then the bulk of the work would be done within our own laboratory.

**Mr. Chairman:** I wonder if I may ask a supplementary on that. I notice that, while a very small percentage of your budget is devoted to travel expense, there has been quite a percentage increase in it, and I am wondering what percentage of that travel budget would be devoted to having your staff keep up with modern techniques in other



countries and this kind of professional liaison with other jurisdictions.

**Mr. Lucas:** I can't give you an exact figure. I would estimate that perhaps five to 10 per cent of it would be for that purpose. The vast majority of our travel is for court appearances in the province.

**Mr. Stong:** I would observe, Mr. Chairman, to the minister; in voting for a more substantial amount than two per cent of your budget towards research and keeping up, it seems to me that we are encountering more sophisticated crime daily, and I don't think our police departments are equipped either to detect or police this situation. Perhaps we should be considering more research into jurisdictions where these more modern techniques are being employed.

[11:15]

**Hon. Mr. Kerr:** I notice you give a number of lectures, for example, at the police college and the various police training centres, staff development centres, universities, community colleges, scientific societies. Are these all given at the centre as a result of people coming to the centre, or do you travel around a bit?

**Mr. Lucas:** Both. Most of the lecturing that we're doing now is to the police college at Aylmer, and in Metropolitan Toronto at the OPP staff development centre. Most of it is at those institutions. We have specialized training courses at the centre for identification officers in the collection of evidence and for criminal investigation officers in the use of forensic science, and breathalyser training is done there.

**Hon. Mr. Kerr:** The very nature of your activity is continuous research, isn't it?

**Mr. Lucas:** It's a matter of definition, I suppose. Each individual case could be considered research. When I refer to research, I'm thinking more in terms of developing a new capability or developing a new technique.

**Mr. Stong:** That's what I was referring to.

**Hon. Mr. Kerr:** I can remember signing a voucher not too long ago for somebody to go to Europe to attend some sort of a symposium from your little old branch. I hope it's not just to give a paper or something. I imagine you would be comparing notes and listening over there.

**Mrs. Campbell:** Don't answer that question.

**Mr. Lucas:** I don't remember anyone going to Europe.

**Mr. Chairman:** I think the minister is asking you not to behave like select committees.

**Mrs. Campbell:** That's right.

I will be brief. Pursuant to Mr. Stong's questioning about defence counsel, it would seem to me that the Solicitor General could make a very good point with the Attorney General, in view of the advent of the public defender system, where I would assume that there would be no question of the free exchange of information. Since the Attorney General is anxious not to further involve himself in the controversy over the public defender system, this might be an opportune time to make that point for the private defence bar.

The question that I have is in relationship to Interpol. Does Interpol have of itself any research capability that you tap into?

**Mr. Lucas:** Not that I'm aware. No, they do publish material that's done in other laboratories.

**Mrs. Campbell:** I see. It's just an exchange program, really, as it is with the chiefs or the designated persons.

**Mr. Lucas:** That's correct. They do produce one item. They produce a file of known typewriter exemplars so that we can identify a particular typewriter. This is an international file.

**Mrs. Campbell:** Do they give you any assistance in an indication of what is going on elsewhere so that if you had the financial capability you might pursue the matter, in these days of both international crime and sophisticated crime?

**Mr. Lucas:** They do publish a journal which contains some information in that regard, but most of that information we would get from the purely professional journals, the scientific journals.

Item 2 agreed to.

On item 3, fire safety services:

**Mr. Haggerty:** I was listening to the Minister of Northern Affairs (Mr. Bernier) last night introduce his firefighting procedures or methods that are going to be used in organized communities in northern Ontario. What involvement will there be from the fire marshal's office in training of manpower in these communities?

**Hon. Mr. Kerr:** First of all, let me answer a previous question as well.

Since the inception of the Ministry of Northern Affairs, we have been working much closer and he has assisted us in indicating where there should be fire protection, where there is some priority in fire protection in unorganized communities. For example,

we have supplied equipment now to six or seven different centres in the north, small communities, pumpers, fire fighting equipment generally.

Our people from the fire marshal's office will help train the volunteer people in this instance who will be manning this equipment, giving them general basic courses in fire fighting. The trucks, for example, have some rather sophisticated, up-to-date expensive equipment on them, in some cases even more than on some of the equipment you will see down here. It is a combination type vehicle which includes ladders and pumps and various types of hoses which would be appropriate in the north. You don't have hydrants in the north so you have to have equipment where you can utilize a river, a stream, a lake or some waterway.

**Mr. Haggerty:** Probably quite a bit of portable equipment.

**Hon. Mr. Kerr:** Yes, very much of that type of equipment. So that both of us now have money in our budgets for assistance to unorganized territories.

**Mr. Haggerty:** Can you show me that expenditure? Is it there?

**Hon. Mr. Kerr:** Well, this is—

**Mr. Haggerty:** I thought your colleague said that he spent the money out of his estimate?

**Hon. Mr. Kerr:** Yes, I think he has got about \$300,000 this year. That was to acquire the six pumpers.

**Mr. Haggerty:** Six pumpers?

**Hon. Mr. Kerr:** Yes. We have an item here for firefighting equipment, \$8,000. That wouldn't buy too many pumpers.

**Mr. Haggerty:** So in other words, it is the money that came out of Northern Affairs?

**Hon. Mr. Kerr:** Right. He spends the money and hands the equipment over. We lent a couple of wild rice harvesters to Natural Resources last night, but he buys them. He will never see them again. He buys them. We are having a little tiff about whose ministry's name should be on those pumpers and I think we have settled that.

**Mr. Haggerty:** That is going to cost us some money, though, isn't it? I think when it comes to firefighting services in a community, it should come under the responsibility of the fire marshal's office for the province.

**Mr. Renwick:** Let's have his name put on there. That will settle it all.

**Mr. Haggerty:** Much of this equipment has been purchased in Canada? It is pretty well all Canadian equipment?

**Hon. Mr. Kerr:** From Woodstock.

**Mrs. Campbell:** Woodstock, Ontario?

**Hon. Mr. Kerr:** Woodstock, Ontario.

**Mr. Haggerty:** Were tenders called then?

**Hon. Mr. Kerr:** Yes, there would be. This is purchased through MTC.

**Mr. Haggerty:** MTC? You are going to have forensic science to get on to this one.

**Mrs. Campbell:** Why can't you get the AG in on this too?

**Hon. Mr. Kerr:** Oh, no.

**Mr. Haggerty:** What particular type of program are you going to have for the person to be trained in firefighting?

**Hon. Mr. Kerr:** I am going to have the fire marshal comment on this, but we have people dealing to train people who will be operating the new equipment. As I say, most of them are volunteer people. There is a basic training in handling fires. Some of the people, I would think, from time to time will attend some of our courses at Gravenhurst. Do you want to comment on that, Mr. Bateman?

**Mr. Bateman:** Yes, I would hope eventually that some of them may be attending the Gravenhurst College, but that is rather more advanced than the stage we expect to be at this year. Many of the people in these departments probably haven't seen a pumper before it is delivered to their town. Of course, we have them organized before that into fire units—we are trying to shy away from the term fire departments because they are really not departments—then when the equipment does arrive we will start with our training sessions immediately on the use of the equipment, and then carry on with fighting fires, fire prevention training, the use of breathing apparatus, entry of buildings, protecting exposures, et cetera.

They are, of course, very aware of how you use portable pumps in forest firefighting, but it is a different proposition entirely in structural firefighting and rescue work. This will be an ongoing thing, I think in perpetuity probably, just as we continue to train organized fire departments.

**Mr. Haggerty:** You do have sufficient funds available, though, for people who want to attend the fire college at Gravenhurst? Their expenses would be paid by the province in establishing new fire departments or fire services in these communities?

**Mr. Bateman:** My only comment there is I don't think it is the funding so much as the

level of training that we now provide at Gravenhurst. There has been a demand for a highly technical level of training. I think it will be a while before these community fire-fighters will have reached that level.

**Mr. Haggerty:** Is there a possibility that perhaps you could use some of the colleges in northern Ontario to assist you in your training program?

**Mr. Bateman:** Yes, I would hope so.

**Mr. Haggerty:** It would perhaps be more economical to go that way than to bring them down to Gravenhurst; take the experts up there.

**Mr. Bateman:** Yes.

**Mr. Haggerty:** On the matter of the smoke detectors, I was reading the statement from the Ministry of Housing on smoke detectors in Ontario Housing Corporation dwellings informing us of the success of smoke detectors or home fire alarm systems that had been installed in Ontario Housing units. What is the Solicitor General's view of the idea that all residents of the province of Ontario should have smoke detectors?

**Hon. Mr. Kerr:** There is no question that smoke detectors are beneficial in all residences and all buildings in the province. As you know, the building code, since about 1975 I believe, requires smoke detectors in new buildings.

I would think that anybody who lives in a dwelling in which there are children would be wise to purchase and install a smoke detector. I don't think the cost is prohibitive. If somebody owns a home and has an investment in a home, the acquisition of a smoke detector is a small item from a cost point of view in comparison to furniture or appliances or other things that you acquire for your home.

[11:30]

There is no question that there are detectors on the market today that are approved by various organizations and associations, whether it's the underwriters' association or what you have. We have issued publications and information regarding smoke detectors, such as the types that are preferred over other types, and general information as to where they should be located in a residence to do the most good.

**Mr. Haggerty:** Where is that information? I'm not aware of it being information that's put into a local newspaper, for example.

**Hon. Mr. Kerr:** Do you want to comment on that, Mr. Bateman? I don't know if every householder gets something.

**Mr. Bateman:** Yes, I kind of hesitate to comment, because the best publication that's been issued so far by the government is from Consumer and Commercial Relations rather than our ministry. We do make references in the various publications that we put out, such as your own quarterly. There's an excellent consumer information sheet that has been put out by Consumer and Commercial Relations. We sent out, I think just last week, a second mailing on that to all fire departments.

**Mr. Haggerty:** This is from your office?

**Mr. Bateman:** In co-operation — we addressed the envelopes and they sent them out.

**Mr. Chairman:** It might be useful to have a few at the MPPs' offices, as well.

**Mr. Haggerty:** I've received information related to smoke detectors from my insurance. Every time I get a notice for renewing an insurance policy, I usually get a little bit of literature about smoke detectors. The point that should be made here though is that the impact, I think, would be greater if it would come from the fire marshal of the province of Ontario. He has a rather important position here in the province of Ontario, but there's nothing actually given to him to show to the public that he is that important person. If you go to the Minister of Northern Affairs or the Minister of Consumer and Commercial Relations, you're not including the fire marshal. I think that's the important thing. If you mentioned the fire marshal, you would have an impact on the community, and they'd say, "This is a rather important thing that we should be giving consideration to." Perhaps we should build up the prestige of this particular department under the ministry here, that of the fire marshal.

**Hon. Mr. Kerr:** I might just add that certainly any pamphlets that our ministry has, the fire marshal has, or Community and Social Services or any other ministry in the government might have could be made available to real estate offices, community offices, MPPs, and all fire stations in the province. I can see, for example, that a fireman could be distributing information regarding all types of alarm systems as a public service in the community, whether by way of a drop at a front door or through second-class mail or what have you, or even using newspapers. But certainly the information regarding fire prevention generally should contain reference to smoke detectors or alarm systems and their value.



For example, since the series of very serious fires that we have had in this area in the last few weeks, I understand the sale of smoke detectors has gone up tremendously. We have to be careful that the people that are handling and selling these smoke detectors are handling a good product, and approved product.

**Mr. Haggerty:** Do you do any testing?

**Mr. Bateman:** No, the Underwriters' Laboratories of Canada—

**Mr. Handleman:** Canadian Standards Association does—

**Hon. Mr. Kerr:** There's usually an approval seal. I put one up last weekend. There's usually some type of a seal that goes on approved by the underwriters' association or something of that nature. I would think any reputable store would carry a proper smoke detector that would be an efficient and approved product.

**Mr. Bateman:** Yes, I haven't seen for sale, in my visits to the retail outlets, any that are not listed by Underwriters' Laboratories of Canada.

**Mr. Haggerty:** Are the replacement parts, such as the battery unit, of a standard size for all smoke detectors?

**Mr. Bateman:** I don't think it is yet. I think that standardization is taking place on a voluntary basis. I think it's almost standard at this stage.

**Mr. Haggerty:** Should the ministry not have some input in making them standardized so that if a person is out to replace the battery unit he knows pretty well that the unit is going to fit that particular type of smoke detector? There are all different types and sizes of batteries. In fact, I just went out and bought one last week for mine. I hoped that when I got it home it would fit. It was the right kind, but I wondered if with different models on the market, it would be of a standard size.

**Hon. Mr. Kerr:** When you went out to get your new battery, didn't you take your old one with you?

**Mr. Haggerty:** No, I didn't.

**Mr. Handleman:** You mustn't be so demanding, George.

**Hon. Mr. Kerr:** Look at the instruction sheet.

**Mr. Haggerty:** Mrs. Haggerty called me in Toronto and she said she had problems with the smoke detectors. She said, "All they're doing is beeping." I said, "We need a new battery." So when I got off the bus in Niagara Falls, I picked up a battery.

**Hon. Mr. Kerr:** I understand that with the one I installed there is some type of a warning. You may know about this. It warns you that your battery is petering out; it no longer has much power.

**Mr. Bateman:** It would be both a small light and an alarm that lets you know when it is too weak. The alarm is supposed to sound for about a week.

**Mr. Chairman:** Mr. Davison, please.

**Mr. Handleman:** I thought we were going in order of party.

**Mr. Chairman:** We are going in order of party. It was Mr. Haggerty, followed by Mr. Davison.

**Mr. Handleman:** Oh, I see. I thought Mr. Lupusella and Mr. Davison were in the same party.

**Mr. M. N. Davison:** Mr. Lupusella has not talked about this.

**Mr. Chairman:** Mr. Lupusella hasn't asked a question since four or five people back, Mr. Handleman. If you want to keep track, you might do so. Mr. Davison, please.

**Mrs. Campbell:** Mr. Haggerty was questioning.

**Mr. Haggerty:** No. If Mr. Davison is covering the same topic, we can continue it. Go ahead.

**Mr. M. N. Davison:** Further to the matter of smoke detectors: Mr. Minister, you didn't really go into it in any detail today but I believe on May 5, some 11 days ago, you informed the House that you were considering the possibility of your ministry making smoke detectors mandatory in all buildings in Ontario by way of the new provincial fire code you're currently preparing. I wonder if, in your consideration of that, you will give some consideration to the type of smoke detectors that are on the market.

Specifically, I would like to raise with you the concern I have, shared by some people in our province, about the ionization type of smoke detector which is currently the detector authorized by the Ontario Building Code. The ionization type of detector provides some problems in a few fields, one of which I think is specifically relevant to your ministry. The ionization detector, unlike, for example, the photoelectric detector, is a nuclear device based on one of two radioactive elements, either americium 241 or radium 226. The majority of those sold in Ontario are based on the element americium 241.

The specific problems that arise outside your ministry's concern are problems related, for example, to the cleaning of a smoke de-

detector. One is to remove the shield every so often, according to instructions, and dust or vacuum lightly. There is the problem of the thin casing over the radioactive element in the ionization type of detector breaking during cleaning and ending up on the person's hands. There is obviously, of course, a concern shared by many about the dangers that the manufacture of that type of detector provides to workers in the work place, working with that element. Then there's the very serious and very real problem of disposal of ionization detectors.

Some of the boxes in which they're sold contain a warning that when you dispose of your detector, frequently after only 10 year's use, you are to return it to the company for proper disposal. Unfortunately, a lot of people tend to toss the box out after they've put up the smoke detector and end up dumping it in the garbage.

Americium 241 has a halflife of 458 years, so it's obviously not the kind of element we want sitting in the local garbage dump, which is what will be happening with a lot of detectors. As you said, the purchase of detectors has increased dramatically in the past few weeks. I believe one store in downtown Toronto recently reported a daily sale of 3,000 detectors. That gives you some idea of the size of the problem.

More specifically concerning your ministry is the question of risk to the health, life, and safety of firefighters. Specifically, if a fire should break out in a building that stores those units—a store, a warehouse or a manufacturing firm—that has a high concentration of americium 241, it seems to me, as it seems to many people and many experts in the field, there is a very great danger to the firefighters on the scene. We've seen the potential hazard with fires in the past few weeks where there have been chemicals involved. This, I suggest to you, is a very real and very serious hazard to firefighters.

It strikes me as terribly unnecessary for us to be faced by these hazards. There are available on the market, at comparable prices, smoke detectors which are as efficient and that are non-nuclear devices—primarily the photoelectric type smoke detectors which, in the case of the smoldering smoke fire which I believe accounts for 75 per cent of the home fires in North America, is more effective.

We have before us two kinds of smoke detectors, one of which presents a real and significant hazard to people and another smoke detector which does not. Both smoke detectors giving equivalent protection and in the case of a smoldering fire, the photoelec-

tric giving better and earlier warning to the people in the house.

I ask you to make some comment on those remarks today. More important, I would like you, as the minister, when considering the new fire code to give very careful and particular consideration to those problems. So if you decide to make smoke detectors mandatory through the fire code you will have given very careful consideration as to what type of smoke detector will be used in the province.

I have severe reservations about the wisdom of encouraging people to put ionization or dual chamber ionization smoke detectors in their homes. I think it's dangerous and I don't think this government has done any work in this field at a level that would meet my worry in this matter. I hope you'll do that.

**Hon. Mr. Kerr:** One of the points made when we talked about the mandatory requirement of smoke detectors was this objection to certain types of smoke detectors. By government making it mandatory we would then have to justify certain types of detectors. We would have to pick and choose to make sure the detector we require in private residences was absolutely safe and there would be no ramifications from use.

[11:45]

There is the usual trite comment that there is danger in everything and nothing is absolutely safe. The question here is, if you use a smoke detector which may save a number of lives the degree of radioactivity that might result from the use of that detector may be very small and very minor in danger compared to the benefit resulting from the use of that detector.

There is no question that in any large disposal of spent detectors—waste oil containing PCBs is the same type of problem—they should be disposed of safely. You realize that smoke detectors are installed in a house and they could be in that house for years and years and years and never used outside of changing the battery occasionally.

You mentioned the possibility of some accident taking place. I don't know what the frequency of that would be. Certainly, the storage of any large supply of smoke detectors of the ionization type should be handled in the way that you would handle any type of chemical equipment, any products that are flammable, or dangerous chemicals. The local fire department should know where this is installed, what companies have a warehouse or storage space handling this stuff so that in the event of a fire there isn't the type of problems you were mentioning.

The photoelectric type, I would assume, would require electricity.

**Mr. M. N. Davison:** It can operate on a battery.

**Hon. Mr. Kerr:** It can operate on a battery. There is one, apparently, that was discussed in one type of pamphlet, that required electricity or must be able to operate in the event that there is a loss of power and a fire.

The ionization type of detector, of course, does work without power or without recharging the battery. It is just like a battery clock in which you change the battery from time to time. These are concerns that I know the fire marshal has, particularly in the event of any provision of, shall we say, very broad mandatory requirements as to their installation. Would you like to comment on that, Mr. Bateman?

**Mr. Bateman:** Yes. I am concerned with the radioactivity. In order to digest the problem I tend to think of it as I would perhaps any other source of radioactive material, such as a watch dial or any other radio isotope. It is a hazard. I am mainly concerned with the disposal and firefighting hazards. If firefighters are aware that there is a radioactive hazard, just as they perhaps might be aware entering a factory manufacturing equipment using radioactive materials, then they can take precautions, ensure they are wearing breathing apparatus and so.

Disposal is something that I don't feel competent to comment on, I must say. I think the radioactive hazard of the detector installed in the house is negligible, compared to a watch dial.

**Mr. M. N. Davison:** I didn't raise that matter with you.

**Mr. Bateman:** I appreciate that. I would finally like to comment very briefly on the discrepancy between photoelectric and ionization type detectors. Perhaps it is unfortunate the technology of both was proceeding almost neck and neck when the Ontario Building Code came into force. At that time there was not one standard that tested them both on the same basis. Underwriters' Laboratories have been subsequently working on that, and I think this year they will have one standard where they can put in smoke detectors and it won't matter which principle they use. They will be compared on a fair basis and passed or rejected on the same basis. So at that time I am confident that the building code will allow both.

**Mr. M. N. Davison:** The only point I wanted to make with you is very simple; I can put it back to you in one phrase: why

should we allow on the market, or for use, especially if mandatory, a nuclear-based detector which does have in it several elements of risk, some of them minimal and some of them potentially very serious, when there is an alternative? I would ask you very carefully to consider that basic issue—the other side issues aside—when you do make a decision in terms of the fire code.

**Mr. Chairman:** I am going to allow a supplementary on this question from Mr. Stong.

**Mr. Stong:** I am going to address myself to this in my own remarks, but now that it has been raised by Mr. Davison I appreciate the inherent difficulty that he has pointed out.

**Mr. Handleman:** Mr. Chairman, I have a point of order. We agreed at the outset of this committee that we would alternate questions. You have now allowed Mr. Haggerty to talk about smoke detectors; you have allowed Mr. Davison to speak about smoke detectors. It is obviously an important subject under this item in the vote, and I suggest that you alternate speakers among the parties. It is a very simple thing. There are three parties represented in this room and it is not difficult to keep track of which parties have spoken.

**Mr. Chairman:** I think it is a very simple thing, Mr. Handleman. If you had kept track the way I have then you would realize that I have been alternating. I've allowed a supplementary question. It is typical in this committee to allow supplementary questions. If you had had the courtesy to tell me that you had a supplementary question on smoke detectors you would have had the same courtesy. I rule against your point of order.

**Mr. Handleman:** I raised my hand as soon as the vote on this item was called.

**Mr. Eaton:** There is no question of hands on this sort of thing when you are on a topic that is of interest to everybody.

**Mr. Stong:** Mr. Chairman, my supplementary arises out of exactly what Mr. Davison was talking about, and I would like to—

**Mr. Handleman:** It's an incredible—

**Mr. M. N. Davison:** I suggest we let them both speak at once.

**Mr. Stong:** Mr. Handleman is so bent on interrupting me, maybe he should go first.

**Mr. Chairman:** Go ahead, Mr. Handleman.

**Mr. Handleman:** Mr. Chairman, I would ask the minister, before we keep talking—

**Mrs. Campbell:** No, no, no, because he is of the government party.

**Mr. Handleman:** Before we continue on the matter of the minister getting involved in



establishing standards I'd like to remind everybody in the room, Mr. Chairman, that we are members of a country where we should require national standards. If every province is going to get into this business of setting product standards we will have a balkanization of standards.

There is an organization in Canada that has the responsibility of setting product standards; it is called CSA. If you want to talk about nuclear problems you talk about AECL. I certainly hope that we will adopt in Ontario a national standard accepted as established in Ottawa.

The whole purpose of setting standards is so that there be a national market rather than a provincial market. If you are going to have a provincial standard and to say this is the only thing we will allow, or these are the only things we will allow in Ontario, then I say you are going down the wrong road. That is why I wanted to interrupt when Mr. Davison was asking you to determine what will be allowed to be sold. I think you should abide by a national standard established by a national organization and use your resources—not setting standards.

**Mr. Renwick:** I don't think we should take a stance of abdicating responsibility in all areas. It is consistent, that's all. To introduce a constitutional issue such as that and to say that Ontario has no responsibility is ridiculous.

**Mr. Handleman:** I am not suggesting we haven't any. I am suggesting in using resources properly and effectively the federal government should take on its responsibilities. Every time we step into a void we create a program which is very difficult to walk away from when the federal government suddenly wakes up and says, "Yes, we should be doing that."

**Mr. Renwick:** I apologize, Mr. Chairman. It was only under severe provocation.

**Mr. Handleman:** I knew I could provoke you.

**Mrs. Campbell:** Mr. Handleman sounds a little like Nero.

**Mr. Chairman:** I thought for a minute it was Mr. Grossman talking. Please carry on.

**Mr. Stong:** Thank you, Mr. Chairman. Still on this point and, as a matter of fact, Mr. Handleman has added fuel to the fire here.

Actually, Mr. Davison has pointed out some very inherent difficulties in this area, and he is not addressing himself to those who are in the house once the ionized fire detector is installed. He is talking about the workers who manufacture them and the workers who

go to fight fires and are constantly exposed to it, and also storage.

If we are accepting the government as being responsible as Mr. Handleman says, I am wondering why you have deleted from your estimates the smoke detection project for a saving of \$25,000. Is that not money that you would have been spending studying the very problems that Mr. Davison has pointed out? Why is that deleted in 1978-79?

**Hon. Mr. Kerr:** That is a question I asked myself.

**Mrs. Campbell:** Why didn't you ask somebody who knew?

**Hon. Mr. Kerr:** I had a hard time getting an answer, as a matter of fact.

This is another one of those little programs that have been taken over by Northern Affairs. That, I understand, is to deal with UCANO, which is unorganized territory, UCANO East and UCANO West, to provide smoke detectors in homes at a discount price. That apparently is the reason why this item has been deleted from our budget. I suppose it is one of those items where, because of our constraints at the time these estimates were assembled, it was felt that because Northern Affairs is providing for this—and it isn't a great sum of money—we wouldn't duplicate it.

**Mr. Stong:** Wouldn't that have been better spent though towards solving the problems that Mr. Davison has addressed to the committee here?

**Hon. Mr. Kerr:** The only thing is, if we are talking about research and this type of thing, whether the deletion of that item precludes that or not. I doubt it.

Something I should mention, and I am sure you know, is that there is a committee at the present time which is drafting a fire code which involves C and CR and our ministry and the CSA, the builders' association, the fire marshal and the fire chiefs in putting together this code.

One of the things they are considering is any type of mandatory provision for alarm systems. Because of their work in realizing that there are a number of areas where this would not apply—the building code, for example, may not apply in unorganized territories—that is why the Ministry of Northern Affairs, in their thrust towards becoming involved in fire prevention, have moved into this area of smoke detectors.

There is, of course, very little municipal fire protection in the north. Because of distances and things of that nature once there is a fire in the house it is usually fatal from the point of view of complete loss of the

residence. Consequently, preventive equipment such as this is necessary there.

**Mr. Stong:** The only point I was trying to make is that that would have been \$25,000 well left in the budget to study the very problems that have been brought up here today about storage, continual exposure by workers, firemen—

[12:00]

**Mrs. Campbell:** And disposal.

**Mr. Stong:** And disposal, yes.

**Mrs. Campbell:** I would like to address myself to something simple but it doesn't fall within that vote. There's more than one ministry involved.

**Mr. Vice-Chairman:** I take it we've completed the smoke problem then?

**Mrs. Campbell:** I'm not discussing the smoke detectors.

**Mr. Vice-Chairman:** Did you want to move on to another topic?

**Mrs. Campbell:** No. It is in the same part of the vote on the fire safety but not on this.

**Mr. Vice-Chairman:** If it's not on the smoke problem, perhaps we could dispose of that. **Mr. Davison** has one further comment.

**Mr. M. N. Davison:** I have a brief comment in response to **Mr. Handleman**. I could not agree with you more about the need for national standards. You'll recall that we argued before about a case where the federal government had not seen fit to move. That was the case of the income tax discounters. We do have legislation here now but they're still in the process.

**Mr. Handleman:** They passed it. We now have two pieces of legislation.

**Mr. M. N. Davison:** I'm sorry, I thought they hadn't. It's only in the past week or two then while we've already had our legislation in place. There's a need when the federal government doesn't move for the provincial government, if it can, to do something. That's not the point I was raising. I wasn't talking about the standards of items for sale. I was talking about the requirements of use. In this case, it's the Ontario government through the building code and through the fire code that is involved there. It really doesn't matter a great deal what the national standards may be, if there are other problems involved with the use of those kinds of detectors that they have approved when, if and how they might. Those are problems we still have to deal with at the provincial level because we are responsible for the Ontario Building Code and we are respon-

sible for the fire code. Those aren't responsibilities we could abdicate, even if we chose, to the federal government.

**Mr. Handleman:** **Mr. Chairman**, I had other questions on the smoke detectors.

**Mr. Vice-Chairman:** Oh, did you?

**Mr. Handleman:** I had also had other questions on this particular vote which I thought I was next to speak on as a main speaker rather than a supplementary questioner. But if I may continue on the smoke detectors—

**Mr. Vice-Chairman:** Please do. I think in an orderly transaction it would make sense to dispose of that topic.

**Mr. Handleman:** Fine. I was going to save that, but I guess I'm not going to get on to the main speakers' list.

With regard to the smoke detectors on this list, I wouldn't ask you to breach cabinet confidentiality or solidarity but some of us did request the Treasurer (**Mr. McKeough**) prior to his budget to consider very seriously a sales tax exemption for smoke detectors. I'm more in favour of making them affordable than making them mandatory. I think if you make them affordable and you educate the public as to their need, then they will become almost universally used. I urge you again in your capacity as a member of cabinet to continue to keep this matter before the Treasurer because it is a matter of lifesaving, though also a matter of tax policy from his point of view.

I think that somehow we should be pressing the federal government to exempt smoke detectors from the sales tax on building materials. Instead of the present trend towards making the installation mandatory in existing buildings at the municipal level. I would prefer, quite frankly, an expanded provincial education program to continue to let people know of the necessity almost to have these.

The problem in making them mandatory on a local basis is you are going to get hundreds of different bylaws. I also seriously question whether those bylaws are jurisdictionally sound, whether they have the right to insist on that kind of thing. If you were going to make something mandatory, I would prefer to have something that might prevent a fire, such as firefighting equipment in the home, and I would draw the line at that. To get back to my first point, that is, the sales tax exemption, I wonder if you'd just take it under advisement. I wouldn't ask you to make a public statement because you then might be accused of differing from your colleague, the Treasurer, on this particular point.

**Mr. Stong:** To quote another minister, does your minister know you're here?

**Hon. Mr. Kerr:** We've made a submission to the Treasurer as a result of the numerous fires that have taken place and because this has become an issue. I believe he was asked the question outside the House. His answer was, basically, "We have no plans for exempting sales tax on equipment of that kind." It was only a brief comment. However, as I say, we have asked for his opinion on this. You know his general feeling about specific exemptions of this kind.

We are looking at the idea of insurance companies offering some type of a reduction in their basic fire insurance premiums for those residences that have smoke detectors. I understand a couple of companies, not necessarily in this province, do offer that type of discount.

We've got the program in northern Ontario where smoke detectors are provided at a discount price. That's mainly because of the large quantity of smoke detectors purchased and I suppose they are getting the usual discount because it's a government program.

It's a question of whether we should make it mandatory or leave it at the municipal level, where a municipality can, as I believe Toronto can, pass a bylaw making this a mandatory provision.

We could provide a mandatory provision in the new fire code or we might provide something, as we do with mechanical fitness certificates, that prior to the sale of a home a smoke detector must be installed. I'm sure that would make all the lawyers handling real estate transactions very happy. Or just by a stepped-up educational program.

**An hon. member:** Another affidavit.

**Hon. Mr. Kerr:** Yes, another affidavit. It's back to the old question of how much does the government have to do to force people to protect themselves and make decisions which will affect their safety and help them to survive in this world.

We have made a number of proposals involving other ministries and I am sure they will be replied to and will affect the ultimate provisions of the fire code.

**Mr. Lupusella:** What kind of program does the ministry have in relation to fire prevention? Can you outline those programs, if any, that are in existence?

**Hon. Mr. Kerr:** I'll ask Mr. Bateman to comment on that. First of all we've got legislation, building code, fire code; legislation dealing with commercial enterprises and

hotels. I believe C and CR still deals with the fire inspection of public taverns, public houses, cocktail lounges, restaurants, and things of that nature. The fire departments themselves carry out an inspection program. Again that's mainly commercial premises, rooming houses, apartment buildings, and things of that nature. We have basic standards that have to be enforced. And those are inspected on a regular basis. Would you like to comment on that?

**Mr. Bateman:** We also have movies that outline certain problems of fire in the home. We have pamphlets that go through the fire departments to the schools and we have the children take them home and reach their parents that way. We have radio programs—not long programs, really spot announcements—underlining programs with regard to wiring, smoking in bed, burning leaves in the fall and matters of that kind. Perhaps the fire marshal can give more detail but generally that's the legislative program and those are some of the communication things that we do.

**Mr. Vice-Chairman:** Before we go on, I think we're getting a little off base here. I was hoping to finish with the smoke detection problem, and perhaps we're finished with that.

Mrs. Campbell is next on my list.

**Mrs. Campbell:** I thought you'd never ask.

**Mr. Vice-Chairman:** I just wanted to make sure that we had left that particular topic.

**Mrs. Campbell:** I would like to address a question to the minister. In view of the fact that he has so many people working on the new fire code, I have to preface my remarks by giving you a bit of background. I learned about firefighting only by dint of being at most of the multiple alarms in Toronto over a period of time.

**Hon. Mr. Kerr:** Was that when you were practising law?

**Mrs. Campbell:** No. I was practising being a politician. I did not go to the fires for any romantic reason, but I did find as a result of being at the fires that sometimes a politician could assist both the firefighters and the police by helping those who were being dishoused—if that's an expression—and relieving some of the hysteria.

On one occasion, as I've explained to the chairman before—it was in his riding at that point in time I think—in the middle of one night, I found the problem that the city of Toronto, and I suspect it's true of all older cities in the province, had always had inside cutoffs for gas mains. It also was pointed out



by the firefighters that they regarded it as a somewhat unhealthy situation.

It was difficult for both the Consumers' Gas people and the firefighters when you had to go into a burning building and cut off the gas in order to get started. As a result of that, Toronto did install outside cutoffs in all its commercial areas, which I think the fire chiefs we've had thought was a major improvement.

I wonder whether any thought has been given to that situation in the older cities where gas is probably prevalent and where it seemed to me that for the firefighters, for the Consumers' Gas employees and for the people in the neighbourhoods, one could perhaps cut the risk of explosions by being able to get in on this.

I saw in Toronto one very nasty explosion. I can't yet say that it was due to this particular situation. I don't think it was ever really determined what caused the explosion but there was gas in the building. I wonder if there is any comment on this, because it is of concern to me, if we're looking at modern methods of protection.

**Hon. Mr. Kerr:** Mr. Bateman, you might comment on this. I can recall a few years ago there was a very bad fire in the Malton area. The first thing I believe the fire department would do in discovering there was gas involved—and they're supposed to have a map of their area showing the location of all hydrants and gas lines and things of that nature—

[12:15]

**Mrs. Campbell:** They do.

**Hon. Mr. Kerr:** I believe they call in the gas company, to turn off the gas.

**Mrs. Campbell:** Automatically, yes.

**Hon. Mr. Kerr:** Do you want to comment on that, Mr. Bateman?

**Mr. Bateman:** I can't offer any definitive comment on this. I was just about to respond to your last question, Mr. Minister, about our responsibility for flammable liquids, and I guess my comment would be the same here. The energy safety branch of the Ministry of Consumer and Commercial Relations has the legislative responsibility. In any case, it is a problem.

**Mrs. Campbell:** Surely not for this?

**Mr. Bateman:** Yes, for gas distribution, oil, propane. In any case, at fire scenes there always is a shut-off at some point on the main. It depends how far back you have to go. I know sometimes it can be quite a way, but I must say, we haven't had serious complaints from the fire department about this.

Maybe Toronto is the only municipality that faces the problem far more than any of the others. They do get co-operation from all departments of the gas company. I don't think there have been any serious problems recently from this cause, but it is a good point.

**Mrs. Campbell:** I don't think there perhaps would be now because that was instituted when Oakah Jones was still with the Consumers' Gas Company. They took one solid year to convert in all those sections, which seemed to me important.

The other thing I would like to ask about, and it has been touched on by the minister, is, in light of the fact that there appears to be, certainly in the Toronto area, an enormous increase in fires which have at least been suspected of arson orientation, what can this ministry do? For instance, some of the old firefighters in Toronto were always worried about the depression times, because they pointed out it was a time when you might find an awful lot of fires which were not deemed to be purely accidental.

What kind of study is going on? Do we have any kind of cyclical information, or is it just a case that every once in a while we get a fire bug? Surely there must be something that is related in these things.

**Hon. Mr. Kerr:** It seems to me these recent fires that have taken place in Toronto in some of these rooming houses follow the number of large warehouse fires we had. I don't know if that is part of pyromania or what, but apparently this triggers people who have those tendencies to set fires themselves. From the information I am getting now, they seem to be in a pattern. They pick a certain area. They are really not that clever in the pattern they establish. They may just pick one area of town and a particular type of facility, such as a rooming house. As you know, in some rooming houses it is not that difficult to get in the front door.

They don't seem to have any great concern for human life. They pick on older buildings that have fairly easy access and where the starting of a fire is not as great a problem as it would be in newer buildings.

As to the type of investigation that the fire marshal carries out with the police, once arson is established and the cause, it's a matter of a police investigation. What do you do? Question known arsonists, people who have records, gather any evidence that may be available?

**Mrs. Campbell:** It sounds like the old times when, after a rape, you rounded up all the known rapists. There has to be a better solution.

**Hon. Mr. Kerr:** It's a funny thing. It's a pattern and usually something triggers it. It goes for a while and, as in the situation now in Toronto, one hopes it eases off. Do you want to comment on that, Mr. Bateman?

**Mr. Bateman:** We seem to be over—I hope we're over—the last flurry of activity of the past two weeks or so. I agree, Mr. Minister, there may be other factors that we have not yet been able to identify: zodiac signs, signs of the moon or whatever. It's mainly the publicity that these things receive in the media, however. We get one fire that receives big play in the press and, for one reason or another, this incites a lot of perhaps otherwise timid arsonists to try their hand at it. Usually, these are fairly low-damage fires. In a one-week period after the fires out in the Beaches, we had some 20 incidents in Metro. Most of them were very minor, in the hundreds of dollars.

That's about the only predictable trend we can identify.

**Mrs. Campbell:** Taking the city of Toronto or Metropolitan Toronto as an example, do we have any statistics as to how many fires have actually been determined to be arson-oriented since January?

**Mr. Bateman:** Not here, I'm afraid, Mrs. Campbell.

**Mrs. Campbell:** Could I get those figures at some later date?

**Hon. Mr. Kerr:** I had some old annual figures but I haven't got anything for that period.

**Mr. Bateman:** Is that for the city of Toronto or for Metro?

**Mrs. Campbell:** For simplicity's sake, I say the city, but I don't know how you break your figures down.

**Mr. Vice-Chairman:** I think what Mrs. Campbell is saying is to use whatever is the most informative method available to you for the statistical information for the province, presumably, by locality.

**Mrs. Campbell:** Perhaps it might be useful in this situation to see whether there has been an increase in this same period across the province, or whether it is just a local situation. If we studied that, we might be able to see if there are some other reasons besides the pyromaniac in a certain locality. I don't know how much work is involved in pulling that together. I think that would be useful if Mr. Bateman could give us that, but I don't want him to spend all his time giving me those figures.

**Mr. Eaton:** You could check your riding campaign period. You said you went to all the fires.

**Mrs. Campbell:** As an alderman, I went to all the multiple-alarm fires in my ward. I went to all that I could of the multiple-alarm fires in the city of Toronto.

**Mr. Vice-Chairman:** Please don't bait Mrs. Campbell.

**Mrs. Campbell:** Don't start that. It had nothing to do with the campaign period.

**Mr. Vice-Chairman:** Perhaps you could address your remarks to the chair.

**Mrs. Campbell:** I'm sorry, Mr. Chairman, but you know very well it wasn't a campaign situation.

**Mr. Vice-Chairman:** Yes, I understand.

**Mrs. Campbell:** Thank you.

**Hon. Mr. Kerr:** You were a hot winner anyway.

**Mr. Stong:** Methinks she protests too much.

**Mr. Vice-Chairman:** And you stay out of it too, Mr. Stong. After all, she's your only representative in Metro.

**Hon. Mr. Kerr:** These are provincial figures, but I might just mention that the number of deaths in 1977 decreased from 265 in 1976 to 238 in 1977. That is the number of fires, I am sorry.

The fire death rate decreased in 1976 from 3.3 to 2.8 last year.

**Mrs. Campbell:** But that is not arson-oriented, particularly; that is just a general statistic?

**Hon. Mr. Kerr:** That is general, including arson.

**Mrs. Campbell:** I think from what we have seen already, if the trend continues we will not see a decrease in the death rate this year.

**Hon. Mr. Kerr:** One thing I would like to ask, and it is something that you people should be asking, but I will ask the fire marshal.

**Mrs. Campbell:** For goodness sakes, let's give him all the information we can.

**Hon. Mr. Kerr:** The question I want you to ask the fire marshal is, "Do you have sufficient investigators in your branch?"

**Mrs. Campbell:** No.

**Mr. Bateman:** I am pleased you asked that question. No, we do not.

**An hon. member:** Well, what's the minister going to do about it?

**Mr. Vice-Chairman:** Wait a minute. Mr. Lupusella?

**Mr. Lupusella:** Thank you, Mr. Chairman. If I may, I would like to consolidate the questions which the member for St. George

raised on fire caused by arson. Maybe the Solicitor General doesn't have the statistical data, but I do have that statistical data and it is a frightening situation which has taken place around the province.

One of the criticisms I would like to make concerns the kind of a question which the Solicitor General told us to ask the fire marshal in relation to the number of investigations.

I think that at the moment we do have 25 investigators employed by the fire marshal and lately, I am not sure in which month, your department has been raising the particular concern that you need more investigators around the province.

I would like to find out how it is that this particular request is coming from the fire marshal, especially these days. In the last few months we have heard about a lot of incidents of fire taking place around the province of Ontario and, in particular, in Metropolitan Toronto.

I am going to get into the statistical data about the number of incidents taking place, but I would like to know the position of the minister in relation to the number of investigators. I think the number should be greatly increased. Getting into the statistical data, there is a statement here in an article dated April 6, 1978, in which Mr. Bateman emphasizes that in Ontario there is an average of 350 to 400 convictions a year resulting from arson cases in the province of Ontario, which is a tremendous figure.

I think we have to elaborate on this particular argument because it is a frightening situation which exists in Ontario.

The article goes on to state that Mr. Bateman, starting his second year in office, admitted that cases have gone up each year since 1973. From 875, 999, 1,053, 1,092 to 1,199 cases in 1977, and that is the latest figure. He stressed that fires are now being investigated much more deeply by staff and more are being reported as arson.

My particular concern is how can the minister justify that all investigations supposed to take place in Ontario can be properly reported and investigated with only 25 investigators employed by the department?

I really share the concern of the fire marshal's department that the number should be greatly increased. There is no doubt in my mind, and I guess in the minister's mind, that the number of investigators should increase.

[12:30]

The other frightening situation is that those fires for fraud were just two of 65 set in

private residences in Ontario last year; and those 65 fires represent an increase of more than 50 per cent over 1976.

The officials of the Ontario fire marshal's office fear that with continuing high unemployment and a repressed economy, there may be a lot more. So I think the Solicitor General should take into consideration those particular factors, and I hope that this government is going to do something about the alleviation of this economic crisis which instead of decreasing is increasing enormously in Ontario.

In relation to the number of investigations probed—some 1,755 fires last year—it was found that 1,193 were caused by arson. It seems that is serious and we cannot underestimate this problem just by alluding to or making particular reference to the fact that crazy people are enjoying themselves by setting fires around the province. I think there is a problem there and I would like to find out from the minister what he is planning to do in relation to this escalating problem.

I read in one article that in the United States, for example, they are setting up a task force to study the proliferation of this particular problem. I am frightened when I look at those figures—that 1,193 cases of fire were caused by arson.

I think that it is time the Solicitor General, in co-operation with the fire marshal, set up a task force to study the situation of those particular incidents related to arson. Considering that the fire marshal's officials fear that the number of cases might escalate in view of the economic crisis which we are facing, I think it is urgent that this task force be set up immediately in order to control the expansion of this particular phenomenon.

I am most concerned and would like to ask how many charges have been laid. I think if the fire marshal were able to detect 1,193 cases related to arson, with the few staff available in his department, I am sure there are other cases involved in the total figure of fires included in the 1,755 but because of a lack of information, I am sure the fire marshal was unable to detect whether or not the fires were caused by arson.

It is a serious problem. I extracted those figures from articles which have, from time to time, been printed in the newspaper. I share the concern of the fire marshal but I think the Solicitor General should give an opportunity to the department to carry forward this important task in relation to arson in the province.



There was particular reference made to fires that have taken place in warehouses, particularly in Metropolitan Toronto. I don't know; we don't have information relating to those particular instances, but I think the Solicitor General should comment on that problem and say what he is planning to do to contain this phenomenon. He should outline to this committee how he is going to assist the fire marshal to expand his operation in order to be effective.

In my mind, first of all I'm suggesting that a task force must be set up in order to identify the seriousness of the case. Also the task force can produce recommendations on how those particular instances can be contained. So I don't think that we should underestimate this particular problem. The Solicitor General has a responsibility about that and I don't share his view that fires are set by psychologically sick people who enjoy setting fires. I think I have figures of how many cases of this nature were related to those people setting fires. I would like to hear the Solicitor General, but I'm going to find the figures and make a further comment.

**Hon. Mr. Kerr:** First of all, Mr. Chairman, I don't accept the suggestion by Mr. Lupu-sella that fires are not being investigated or that there is any lack of proper investigation or statistical information regarding fires. They are all being investigated. When I asked my question of the fire marshal I was speaking particularly of a period that we've had, during the last month or so where a number of fires involved arson. I'm sure his staff was taxed to the limit and I was wondering if, because of situations of that kind, he may require more staff. However, the statistics or information that the member referred to do not indicate that there is any lack of proper investigation, or lack of a fire-prevention program, or of the equipment or manpower necessary to deal with fires.

There is a breakdown, of course, on the number of fires that were set, showing the increase over previous years. For example, in 1976 the total number of fires was 23,109; in 1977, the total number of fires was 24,610. It's about a 6.27 per cent increase from one year to another.

There is, as I say, no lack of proper investigation or information. In fires in warehouses, for example, the one in Oakville, this involved not only the local fire department and the fire marshal's office but also the police and the health unit and the Ministry of the Environment and any other ministry that may be involved there. There were even

people from the Ministry of Transportation and Communications with equipment.

These forces all come into play to control large fires of that nature. Each fire department is supposed to keep a catalogue and information about various warehouses, the storage of chemicals and other flammable material. That was the case in Oakville. This assists the firefighters in knowing the type of clothing and equipment they need as well as the degree of help they require. If they require assistance from adjoining municipal fire departments in men and equipment, as they did in Oakville, any agreement to share assistance would come into play in a situation like that.

I don't know where the member got the idea that I said the only people who start fires are pyromaniacs; I never said any such thing. I can give a breakdown of the fires in 1977. The total number of fires attributed to arson was 1,193. The breakdown, under the heading "Motives," is: unknown, 188; fraud, 95; revenge, 192; cover other crime, 83; mischief, 439; mental, 179; pyromaniac, 10; paid arsonist, seven. So there are various reasons and motives behind arson or incendiary fire of that nature.

I don't think it is necessary to set up a task force. I think this is the role of the fire marshal's office and the fire chiefs' association, whether it is the appraisal or assessment of the methods you use, whether you are up to date in your detection methods of fire or fire-fighting, fire inspection, this sort of thing. I would assume that you are up to date and comparable to any other jurisdiction as far as that is concerned.

This is all part of the new building code, the fire code that is being drafted at the present time will reflect some of the things you feel are necessary. My concern, as I say, in asking that question, was that where you have a number of fires of an incendiary nature, as we have had in Toronto, every fire takes a certain amount of time before you can establish whether or not it is the result of arson. The police, of course, are depending on you for certain information before they can carry out their investigation in order to make arrests or what have you, take certain preventive steps, warn citizens in a certain area.

The problem with arson is that in most cases all the fire detection equipment in the world sometimes will not prevent a fire resulting from that cause, as in the rooming house. The rooming house in Sherbourne Street, as you may know, had smoke detectors, an electric fire alarm, as well as that old pull type of manual bell that they

use. I don't know how much good that is unless somebody wakes up, of course, and grabs for the damn thing. That is something like a rope fire escape; it is a little outdated. I understand the Sherbourne Street building did have that fire warning system that was put out of commission by the arsonist.

[12:45]

**Mr. Renwick:** Is that true?

**Hon. Mr. Kerr:** That's one explanation that was given. Isn't that true?

**Mr. Bateman:** The alarm system was out of commission. I believe we're still working on when and how it got put out of action.

**Mr. Renwick:** You should be more careful, Mr. Minister.

**Mr. Lupusella:** Mr. Chairman, first of all, I didn't criticize the ability of the fire marshal in carrying out his investigation. What I'm trying to say is that the Solicitor General is not responding to a serious problem in relation to fires caused by arson.

As you know, at the moment the general policy of the fire marshal's office is that they are called when there are debts involved, where there are losses exceeding \$500,000, where there is a strong suspicion of arson, or where there are explosions. I'm particularly concerned about losses exceeding \$500,000. I think that the fire marshal should get involved even for cases related to \$50,000, when there might be a suspicion that arson was the cause of the fire. I think that particular policy should be changed. It reinforces, in some way, the point which I raised previously, that we need more investigators employed by their branch.

In my opinion, 25 people are not enough to carry out this important task. Thus, I raise the question as to how many charges have been laid in relation to those cases where arson was detected and if the police were able to identify those people responsible for causing the arson.

**Mr. Haggerty:** I just wanted to add a few comments to the previous speaker's remarks. I understand the Centre of Forensic Sciences has a booklet out to inform persons in investigations on such things as fire matters that could relate to arson. It gives quite a list of things that they should be looking for in the case of a fire or anything that relates to fire matters, police matters, et cetera. Is that pamphlet made available to fire chiefs in the province of Ontario?

**Hon. Mr. Kerr:** I would think so.

**Mr. Bateman:** You're nodding yes, Mr. Wilson.

**Mr. Haggerty:** You can buy them in government bookstores so they must be made available to somebody. It's not a hidden document.

**Mr. Bateman:** We conduct our own courses that we feel have been pretty successful, both at the fire college and regionally, for fire departments and police in assisting us as first arrivals at the scene of the fire as to continuity of evidence and so on. We do have great co-operation from the fire departments and the police that way.

**Mr. Haggerty:** I just happened to run across this booklet, and I thought it was fairly interesting. I thought it should be perhaps sent out to every fire chief in every municipality in Ontario.

The other matter that concerns me is that I understand there still are conflicting authorities in the matter of fire inspection in municipalities, particularly relating to institutions such as homes for the aged and children's aid societies and also liquor outlets or taverns in the province of Ontario. I understand that it's causing quite a difficulty to local fire chiefs and fire inspection officers to really have input on fire safety in a community when there are so many different agencies with their own fire regulations that apply to a certain type of establishment.

**Hon. Mr. Kerr:** There is much less conflict than there has been in the past; the local fire department has taken over more of the responsibility for inspections. Under the Hotel Fire Safety Act, where it involves licensed premises, the inspectors have the main responsibility for that inspection, but they bring in people from the local fire department when there is one. The same goes for local bylaws. A building inspector uses the personnel from the local fire department. For homes for aged, the standards are set by another ministry, but also in some sort of co-operation with the fire marshal's office in arriving at those standards. That is pretty well set out in legislation or in regulations. It is perhaps a matter of shifting personnel from one ministry to the other and putting it all in one ministry.

**Mr. Haggerty:** I thought the introduction of the provincial building code would eliminate a number of the other agencies setting up their own fire regulations.

**Hon. Mr. Kerr:** One thing the building code does is give some responsibility to the local level, even more than it did before. I suppose there should be somebody overseeing that to make sure the provisions of the code are being carried out. Right from the start,

with new construction, it makes sense that local authorities who are at the scene should have that responsibility, rather than sending people all over the province.

It has improved considerably. I think after the Paris fire a few years ago, where a number of lives were lost, we improved our inspection procedures.

**Mr. Haggerty:** I understand there are still some difficulties in that particular area, and I thought it should be brought to the attention of the minister once again that there should perhaps be one book of rules and one authority to police, and that is through the fire department and fire chief.

**Mr. Wilson:** That's the problem. There is more than one book of rules. As the minister said, and as you know, Mr. Haggerty, there is the municipal fire code and the national fire code that has been adopted. We are trying to reduce the number of inspectors. I think the complaint you would probably get from hotel operators is that they get several inspectors on the one issue. We are trying to reduce the number of inspections.

**Mr. Haggerty:** It's not a question of reducing the number of inspections, it is the conflicting guidelines that are set down. One will have a certain rule to go by, and then the fire chief may have something that no doubt involves more enforcement. Finally, when someone wants to open a new hotel or something like that they have to get final approval from the fire chief. Sometimes he may be a little harsh in what he puts in his final statement as requirements before the establishment can open.

I can cite one particular case where, in taverns and such places, the carpeting or the rug, which has a particular fire rating, goes half way up the wall. If you were to take a match and light the rug on the floor it will certainly travel less; whereas if you put it on the wall it will catch almost like lightning. These particular aspects are causing difficulties for persons doing fire inspections in these outlets and other places. I think you are going to have to tighten it up a little bit. Maybe we shouldn't have rugs half way up the walls. The members' dining room, for example is a place that should be put to the test one of these days to find out just what is the fire rating in that particular room.

**Hon. Mr. Kerr:** They are going to have a wine tasting contest there.

**Mr. Chairman:** It probably tastes better than the food sometimes.

**Mr. Haggerty:** There is a fire rating on almost every material that's sold. It depends

on how the material is applied. If it's applied on the floor, it may give a different rating, but if it goes on the wall the rating disappears then. In a matter of seconds it could go up.

**Hon. Mr. Kerr:** I know from personal experience that if a contractor is building a building, if it's a commercial building of any kind, Mr. Bateman has to approve a certain building material. I understand you take rather a dim view of broadloom on the wall in many instances.

**Mr. Bateman:** Yes, but not in every instance necessarily. There are some types of carpeting that have been tested and are relatively non-flammable. If I might take a second to trace the general intent behind the building code and the fire code, I think it will give you some idea that things might improve with a little patience.

The building code was initiated back in 1970 to overcome the duplication and the multiplicity of building code requirements for new structures. Each municipality had its own set of requirements and there was a network of provincial requirements as well. The building code was adopted to get around these. The municipalities had to do away with their own building bylaws and the province is still doing away with any conflicting provincial regulations respecting new buildings. I know we did so on the Hotel Fire Safety Act. That's for new buildings.

The companion document which has been referred to here is the fire code which deals with hazards to be found in existing buildings, how you deal with the use, the occupancy, the fireload and the misuse of the building. That's due to be completed this year. Again, the same exercise should take place. All existing municipal fire prevention legislation would be redundant and provincial legislation should be phased out. I hope next year, if you raise this question, that the situation will be a lot more logical.

**Mr. Haggerty:** The reason I raised it is that it has caused difficulties in a certain fire department. They were singled out as perhaps the culprit in not approving the final opening date of an establishment. It was approved by an architect and it was approved by the Liquor Licence Board of Ontario.

**Mrs. Campbell:** After that, you don't need anything else.

**Mr. Haggerty:** If it hadn't been for the local fire department being on its toes, there could have been a serious fire and loss of lives. They just wouldn't approve it. They said it didn't meet the fire rating as set out.

I raise the point that there are many areas



for improvement and gradually we are getting there I guess.

**Mrs. Campbell:** Ploddingly is the word.

**Mr. Chairman:** I have two people left on my list, Mr. Renwick and Mrs. Campbell. You have your choice of either having two minutes or keeping your names at the top of the list for the next session.

**Mr. Stong:** Mr. Chairman, did you scratch me off?

**Mr. Chairman:** No, I didn't.

**Mr. Renwick:** I scratched you off as I am next.

**Mr. Stong:** Add me to the list.

**Mr. Chairman:** Mrs. Campbell was ahead of you and she left the room. Mr. Haggerty of the Liberal Party then moved into her place. You are still on the list after Mrs. Campbell.

**Mr. Stong:** I would like to be on it for next week.

**Mr. Chairman:** Fine. If I were not to rotate, then I would never know if Mr. Handleman might have a spy in here and he would report on me. I want to make sure then that I am rotating.

**Mrs. Campbell:** You can take either of the Tories in rotation.

**Mr. Chairman:** None of them has been asked to be put on the list.

**Mr. G. Taylor:** I am going to reserve November 5, 1982. Reserving so far ahead, I would get in there.

**Mr. Stong:** You are going to take the fifth, are you?

**Mr. Renwick:** May I ask a question without losing my place?

**Mrs. Campbell:** You either speak now or hold your peace.

[1:00]

**Mr. Renwick:** I just wanted to say to the minister that my colleagues and I want to go into that arson question at some more length and with more specificity. I would appreciate it, if the fire marshal is able to do so between now and next Wednesday, if we could have given to the committee some informative statistical information—not just one sheet, but maybe a series of sheets—in connection with the arson problem in Ontario.

**Hon. Mr. Kerr:** Are you talking specifically about the last three or four months?

**Mr. Renwick:** Whatever is the convenient period of time. I don't want you to spend most of your time drawing up figures that are not readily available. You can give a time period within which you think the information is informative, and then the dispersal of it, the nature of the fires, the extent of the loss, the motivations behind them—all of that stuff. My colleagues and I feel this is a matter we want to highlight and try to understand rather than just leave it in this rather desultory conversation basis.

**Mrs. Campbell:** I am concerned, too.

**Mr. Stong:** Mr. Chairman, I would like to be specific about one particular fire and perhaps we could have more information. It occurred on November 26, 1977, in Welland, and it involved the Phillips Block. I have an affidavit from a person, and I would like to go into that situation in very great depth. The affidavit was sworn on May 15. I will get you a copy between now and next week.

**Mrs. Campbell:** Did you swear it?

**Mr. Stong:** No.

**Mr. Bateman:** You said that was in Welland?

**Mr. Stong:** That was in Welland.

The committee adjourned at 1:03 p.m.

## CONTENTS

---

Wednesday, May 17, 1978

Public safety program .....	J-55
Program management .....	J-55
Centre of forensic sciences .....	J-57
Fire safety services .....	J-64
Adjournment .....	J-79

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
 Davison, M. N. (Hamilton Centre NDP)  
 Eaton, R. G. (Middlesex PC)  
 Haggerty, R. (Erie L)  
 Handleman, S. B. (Carleton PC)  
 Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
 Lupusella, A. (Dovercourt NDP)  
 MacBeth, J. P. (Humber PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Renwick, J. A.; Vice-Chairman (Riverdale NDP)  
 Sterling, N. W. (Carleton-Grenville PC)  
 Stong, A. (York Centre L)  
 Sweeney, J. (Kitchener-Wilmot L)  
 Taylor, G. (Simcoe-Centre PC)

**From the Ministry of the Solicitor General:**  
 Bateman, J., Fire Marshal  
 Edwards, L., Director, Financial Services  
 Lucas, D., Director, Centre of Forensic Sciences  
 Wilson, F. L., Assistant Deputy Minister



No. J-4

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Wednesday, May 24, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue. Contents of proceedings also appears at the back of this issue.

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## LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 24, 1978

The committee met at 10:07 a.m.

### ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

On vote 1602, public safety program; item 3, fire safety services:

**Mr. Chairman:** We have nine hours and 57 minutes left in these estimates. I see the two opposition critics present, so I'm going to call a quorum. If it meets with the approval of the two opposition critics, this committee does have some spare time on Friday and we could get in an extra three hours. Is Friday morning satisfactory to you?

**Mr. Stong:** Is that in place of bills? I thought we were going to do bills on Friday morning.

**Mr. Chairman:** No, we have no bills scheduled.

**Mr. Stong:** That's okay with me.

**Mr. Chairman:** Is that all right with you Mr. Lupusella?

**Mr. Lupusella:** Yes.

**Mr. Chairman:** It's okay with the minister, too. That will bring us closer to finishing our estimates. I had a list that included Mr. Renwick, Mrs. Campbell and Mr. Stong. You can start, Mr. Stong. We're on item 3 of vote 1602. If no one is likely to call points of order, for the present moment then I can be a little flexible on that item, if the minister agrees.

**Mr. Stong:** On this specific vote, I am concerned with the number of fires that have been occasioned in the year 1977, the cause of which has been undetermined, which are listed in the material we have been supplied with. These were fires where the damage exceeded \$250,000. As I look over the list, there's nothing below \$250,000 at all. In fact, the heading is "large loss fires." It covers the period in 1977 from January till December.

As I calculate it, there were 69 large loss fires in that year. Of those 69, the municipality has stated the place where the fire was, the cause and the estimated loss. There are 42 listed as undetermined cause, 12 incendiary, making a total of 54 fires of question-

able origin, I would assume, out of 69. So if you have 54 large fires of undetermined or questionable cause, I'm wondering what is being done to ascertain whether some of these fires may be the result of arson. The circumstances are very suspicious.

I point to one particular case that was brought to my attention, and I asked for the information on this fire. It occurred in Welland on November 26, 1977. The loss was listed as \$460,000. The cause is listed as undetermined. I came into possession of an affidavit sworn by Mr. Joe Krar. I'm sorry that I didn't get the copy to you until this morning, but he was involved in this block, this business unit.

His wife was the owner of a store in that area, and as he has indicated in part of his affidavit—without reading it—it's a very lengthy document—he's pointed out that he indicated on several occasions to the fire officials that there were exposed and bare or stripped wires in the basement. He pointed to that as perhaps the cause of the fire, even to the point that it should have aroused sufficient suspicion that perhaps arson may have been suspected.

As I understand the situation, it was more advantageous, because of the way the streets were going to be allocated pursuant to a decision of that local council, that this particular block of apartments would have been either rendered into a parking lot, or if another route had been chosen by the city of Welland, these businesses would have suffered because they wouldn't have had sufficient or ample parking and thereby would have, as I indicated, lost their business and lost income. So it was probably more advantageous to have a fire.

If those allegations are correct, it would seem to me that having had the cause of this fire pointed out, or at least a suspicious possible cause pointed out, at least the fire department should have investigated it. They have supplied me with a report today, dated May 23, which is this week, to you. I thank you for it. I haven't had a chance to read it in total, but I do notice that on the last page in the last paragraph it says:

"Further examinations will be made when the building is safe to enter. At that time we

will be able to definitely establish whether or not the severed wire could have been a direct cause." They'll trace the wire back to the electrical splitter box. That building is supposed to be demolished on June 1, and if the investigation doesn't take place now—it's over six months since the fire—if it hasn't taken place by now, I understand it's going to be demolished and this cause may never be determined.

It seems to me that perhaps if this situation is so, it's something that the ministry ought to check into. A man swearing an affidavit indicating his concern, a member of the public calling upon the ministry, should create sufficient concern in the ministry through the fire officials to examine this particular fire of which he is very concerned. I would like to get your response to it.

[10:15]

**Hon. Mr. Kerr:** As the honourable member has indicated, I have given him a report today. It's a six-page report on the question that he asked last week in respect to this fire. There's no question that both the local police and fire department, and the fire marshal's office, have been involved in this investigation. There's no question of any avoidance or neglect of duties to which the various agencies and departments have been assigned.

The report indicates on page five it is the fire marshal's opinion that the fire is of an accidental nature, probably caused by faulty wiring, either in the wall partitions or in the ceiling area of the basement of Jerry's Army Surplus Discount store. Just what further investigation is necessary, I'm not sure. The report indicates at the very end that a further examination of the premises will be made when it's safe to enter the building. I understand the building caved in and once it is safe for the investigators, and certainly, I would assume, Mr. Bateman, before the debris is completely removed from the site, the fire marshal's office will have a chance to complete the investigation. Would that be correct?

**Mr. Bateman:** Yes, that would be our opportunity. Since a few days after the fire occurred, when a further collapse took place, it hasn't been safe to go in the building to examine the wiring. But we're convinced from the initial investigation and from the discussions we've held with the fire department that the fire is accidental.

**Mr. Stong:** I understand that building is scheduled for demolition on June 1, and perhaps it'll begin as early as June 2. Before that is undertaken, could the minister at least have the allegations contained in this affidavit

checked out? I'm referring to the bottom of page one where Mr. Krar said:

"On Sunday"—meaning November 27—"at 7 p.m. during a salvage operation in contract with Jerry Chisuin, Joe Krar and Adelard Ducharme discovered a badly burned beam approximately 13 feet north of the back basement wall of Jerry's Army Surplus. The socks and boots immediately below this were burned and had pieces of burned wood lying among them. Joining the burned ends of the beam and holding them together was an insulated wire. The insulation was black with a length of approximately six inches stripped, so that a recently bared copper wire was visible. The white insulation packing showed very little sign of discoloration."

I wonder if that could be checked out just for the purpose of satisfying the person who owned that building, before the demolition begins. I thank you for the report you've provided and I wonder if that individual may be satisfied with an investigation before the demolition takes places.

**Hon. Mr. Kerr:** I think it would be important to complete your investigation before the demolition is undertaken and before the debris and material is removed from the site. You might find out if in fact June 1 or June 2 is the cleanup date. I would also think that you will have an opportunity to check the affidavit of Mr. Krar which we received this morning and will get back to you again, Mr. Stong.

**Mr. Stong:** I wonder if I could also get some response from the minister with respect to the background material that we have been given and the fact that there are 42 fires listed as from undetermined causes. Does that mean that there is insufficient personnel to conduct proper investigations, is it because the damage was so extensive that there is nothing left to sift through, or is it perhaps because there is insufficient co-operation among the police forces in investigating these fires?

**Hon. Mr. Kerr:** Is it 42?

**Mr. Stong:** Forty-two undetermined and 12 incendiary, making a total of 54 out of 69.

**Hon. Mr. Kerr:** Have you any comment on that, Mr. Bateman? It does seem to me rather a large ratio.

**Mr. Bateman:** I don't think it is for large-loss fires particularly, this unflattering batting average. Large fires by their nature do a lot of destruction, and this destruction involves the evidence of why the fire occurred. We're very careful not to put down the cause of a fire, whether it be incendiary, electrical, or



whatever cause, unless we're certain. Therefore we have quite a number of these undetermined fires. We may be reasonably confident that the fire was caused in a certain way; but as we're not 100 per cent sure we don't put the cause in the statistics, we class it as undetermined.

I don't think this ratio has changed much over the years, so I suppose we're not getting any better; but we're certainly very conscientious about how we ascribe causes to fires.

**Hon. Mr. Kerr:** I just noticed in the material that we gave you this morning from Mr. Williams—a copy of a memo from Mr. Williams to Mr. Bateman—you will see the comparisons in 1976 and 1977 where all the—

**Mr. Stong:** I don't have that.

**Hon. Mr. Kerr:** Would you please give Mr. Stong a copy? It lists the various motives attributed to all fires, large and small. The unknown factor in 1976 was 22.8 per cent; in 1977 it was 15.7 per cent of the total percentage of incendiary fires.

**Mr. Stong:** What does "motives" mean?

**Hon. Mr. Kerr:** Reasons. You know, *mens rea*.

**Mr. Stong:** This doesn't seem to match with the information that we have been supplied with, then, when you have so many of these things listed as undetermined.

**Hon. Mr. Kerr:** You're looking at a list of large-loss fires.

**Mr. Stong:** Yes; I am.

**Hon. Mr. Kerr:** What I gave you was the total figure.

**Mr. Stong:** Along those lines, I noticed that you had 25 investigators. I don't know the total number of fires per year that your office would be involved in; but when there are almost 70 large loss fires, that's almost three per investigator. It would seem you're probably understaffed.

Perhaps you could explain to us what kind of qualifications, what kind of training your investigators have; what kind of support staff and what kind of municipally provided staff and expertise you have to assist you in your investigation.

**Mr. Bateman:** Our investigators all have police background; their training is with the police, normally the OPP, and when they come on staff, typically they don't have any training at all in fire investigations. Perhaps I shouldn't say no training at all because sometimes they do get involved in arson investigations with the police force.

But from the time they come on staff they go on a training program with us. They're sent 15 weeks to the Ontario Fire College and they work with other investigators for two years to start with. This is really the only training ground we know of. Quite candidly, although it hasn't been my section of the office directly in the past, I think we have the best fire investigation force on the continent. While we do send them to other jurisdictions to take training—there's a course in Louisville every year—I don't think we can learn too much from other jurisdictions. We just have to look at the record of arson in the States to realize we're doing fairly well here.

**Mr. Stong:** First off, you get involved when you're called in by the local fire chief, I assume?

**Mr. Bateman:** Yes, we are.

**Mr. Stong:** Mr. Chairman, I'm going to direct some questions, if I may, through you but directly to Mr. Bateman if that's possible.

**Mr. Chairman:** Yes.

**Mr. Stong:** Thank you.

That's the only method by which you become involved in investigation, as a result of a local fire chief who may be suspicious of the cause and wants it determined? Is that the idea?

**Mr. Bateman:** That's by far the commonest method. We sometimes do become involved through the police and sometimes—and this is often a little late in the day—through insurance investigations.

**Mr. Stong:** Do you have co-operation from and do you co-operate with insurance investigators?

**Mr. Bateman:** Yes, we do co-operate with them.

**Mr. Stong:** What percentage of your fires would be investigated on the basis of trying to establish whether it's arson or not?

**Mr. Bateman:** I don't know. I think I've got that in here. Roughly 90 per cent are where there is suspicion of being incendiary. The other categories are the large loss—70-some-odd for 1977—and fatal fires.

**Mr. Stong:** Is it fair to say that where the cause is listed as undetermined there is probably a greater suspicion of arson than anything else?

**Mr. Bateman:** I would think it would be around that ratio, yes.

**Mr. Stong:** I don't want to be—I'm just trying to figure this out myself, trying to understand these statistics. Is it safe to assume then that in this background material, of all

these large fires that are listed as undetermined, there is a narrow suspicion of arson?

Mr. Bateman: I'm sorry. I thought you were referring to all the fires we investigate. In the large loss list, when we're called in to investigate there, or when we automatically investigate just because it is a large loss—I don't think I could hazard a guess. Certainly in some of them we may suspect arson but I'm sure in quite a few we suspect careless smoking or electrical wiring or other problems.

Mr. Stong: Is there a cutoff point at which you are automatically involved—say \$250,000—and you automatically go in to investigate that?

Mr. Bateman: Yes. Last year it was \$250,000. That has been raised this year to \$500,000 where we investigate automatically. We sent a directive on this to all fire departments that if there's anything they're particularly concerned with as to the type of building and the occupants and so on, with fires between \$250,000 and \$500,000 to get in touch with us and we'll investigate those as well. The automatic figure is \$500,000.

Mr. Stong: Why was it raised to \$500,000?

Mr. Bateman: Simply work load—and the fact that we have found that you can get damage of \$250,000 in more or less routine fires—even large dwellings now, with the contents and so on. So it is recognition of inflation really.

[10.30]

Mr. Stong: Of course that would apply to places of business and commercial establishments. I am wondering why it was raised there to \$500,000. I know it doesn't take much of a fire to create that damage, but if we are going to be taking arson seriously it seems to me that in today's economy it is something that we should be looking at very closely.

Mr. Bateman: I am just talking here about the large-loss category of fire. We still investigate any fire, whether it is \$500 or \$50, where the fire department thinks there was a possibility it was arson. They call us in and we will investigate that.

Mr. Stong: How many fires have you investigated and subsequently substantiated the report of the insurance that it was arson in the year 1977?

Mr. Bateman: That would be fraud.

Mr. Stong: Would it.

Mr. Bateman: I suppose that would be the closest approximation.

Mr. Stong: I imagine that they categorize arson as fraud.

Mr. Bateman: There were 95 in 1977.

Mr. Stong: You were able to substantiate 95 claims of fraud—or arson?

Mr. Bateman: Yes, with fraud as the motive. Fraud is normally insurance fraud.

This list at the bottom of the memo of May 19 outlines the motive of the arsonist. It is not really the cause of fire; these are the motives. Fraud was up a bit from 1976.

Mr. Stong: Revenge is 192. Is that the same as somebody deliberately setting a fire to get back at someone?

Mr. Bateman: To get even with someone, yes.

Mr. Stong: The insurance company would probably categorize that as arson, would it not?

Mr. Bateman: I think this is personal revenge rather than monetary. But yes, I would say that the insurance company would classify that as arson.

Mr. Chairman: For the benefit of the people who may have come in late, we are on vote 1602, item 3. We also have a substitution: Mr. Belanger has voting rights on this committee for today. Carry on, Mr. Lupusella.

Mr. Lupusella: If I may, Mr. Chairman, I would like to pursue this issue. I didn't feel quite satisfied about the answers given by the Solicitor General in relation to this problem. By the way, I am interested in finding out the results of the investigation that the Solicitor General is going to provide to the member for York Centre in relation to a case that he raised at the very beginning.

In relation to the new statistical data related to fires caused by arson, I think that the Solicitor General should worry about that. First of all, I didn't feel quite satisfied with the answer when I told the Solicitor General that a task force should be called to study the effects of fires in the province. It is a criminal offence, because setting fires is endangering lives of persons living in the surrounding area. I think it is a very serious criminal offence.

I think we should not underestimate the seriousness of the problem. I want more concrete answers from the Solicitor General on what he is planning to do about this particular problem. I would like to convey my appreciation to the fire marshal's office for the hard work which the office is performing in relation to the investigative aspects of the situation. I think that they are doing a marvellous job even though I disagree with the particular guidelines which, of course, the office is not responsible for.

We are dealing with guidelines and policies coming from the Solicitor General; and they are following those policies. I am particularly concerned that an investigation takes place when there are losses exceeding half million dollars, even though I heard from the fire marshal's office that all cases of fire are investigated.

If I may, I would like to direct a question to Mr. Bateman. Are those cases part of the statistical data which the Solicitor General gave us or are these cases in which the loss is over half a million dollars?

**Mr. Bateman:** The information that you have received today is just concerned with incendiary fires. I have just found in my brief book that last year we conducted 1,844 investigations of all sorts and 1,193 of those were investigations of suspected incendiary origin. So the total dollar loss is based on this 1,844.

**Mr. Lupusella:** To the Solicitor General: I think that 25 investigators at present employed by the fire marshal to investigate those cases is just ridiculous. I think the Solicitor General should give us a particular assurance that the number is going to be increased in order to tackle the problem at the roots and that we are going to lay charges against those who are endangering people's lives in the province. I don't think this is a light crime. It is a serious crime.

From the statistical data—and I don't want to emphasize the figure—the Solicitor General, the other day, was pinpointing that a lot of fires are set by pyromaniacs. From the statistical data I can easily see that in 1976 we had just nine cases involving that particular phenomenon; in 1977 we had just 10 cases.

I think the major problem involves fraud. The number of cases of fraud increased from 60 to 95. For revenge, from 113 to 192. I would like an explanation for "cover other crime" which went from 52 to 83; "mischief," from 432 to 439. Then we get into the item of "paid arsonist" from five to seven. There is an enormous increase in the number of cases and the percentage. I don't think the Solicitor General takes the problem seriously. It is a serious problem, even though I am aware that almost 400 convictions have been laid. I don't know in which year, I guess in 1977.

**Hon. Mr. Kerr:** It was 552.

**Mr. Lupusella:** What was the result of those convictions? I am particularly interested in the result of the trial, when those people appeared before the court. What kind of penalty was involved? Does the Solicitor General have some statistics data? I would

be interested to find out how many people were arrested and had been jailed as a result of a fraud, as the result of a covered-up crime or as a result of a paid arsonist. I would like to know what was the result of the charge when the case was before the court. Do you have this statistical data?

**Hon. Mr. Kerr:** I am going to ask Mr. Williams or Mr. Bateman if they have that information. The information I have is that in 1977 there were 552 criminal charges laid. These resulted in 371 convictions and 40 acquittals. There is still a balance of these cases awaiting trial. Out of 1,100, I believe 93 were found to be of an incendiary origin.

Would you have any information as to the type of sentencing or the type of penalty that has been imposed as a result of those convictions, Mr. Bateman? I imagine they would vary the same as any other criminal case depending on the fire and depending on whether the person who was convicted had a record or not.

**Mr. Lupusella:** Maybe I can get this information?

**Hon. Mr. Kerr:** Those would be police records and they would vary somewhat.

**Mr. Lupusella:** Can I get this information maybe later on? Would you forward this information to my office?

**Hon. Mr. Kerr:** It may take a couple of months because it has to go around the province. As I say, it would probably be mainly police information unless you correlate that yourself.

**Mr. Bateman:** Yes, we have that information.

**Hon. Mr. Kerr:** I might say that the honourable member about three times now has indicated that I have emphasized that most fires of an incendiary nature were started by pyromaniacs. I said no such thing. I was talking about the situation that occurred in the last few weeks during this particular year, dealing with the fires within Metro Toronto only where there was a suspicion of arson and where arson has been established. In some cases, this seemed to be the result of pyromania because there was a certain pattern to some of these fires, particularly as they were started in the same district and then would move to another district. Also, I made the point that when there is a large fire, a warehouse fire, that receives a substantial amount of publicity and this has some effect on people who have pyromania tendencies.

**Mr. Ziemba:** Has that got anything to do with the full moon?



**Hon. Mr. Kerr:** So they say. It's either that or ride around on a broom.

**Mr. Chairman:** I hate to mention it to you but there is a full moon out at certain times.

**Mr. Lupusella:** I get the impression that in such cases it is easy to get away. I would like to find out from the Solicitor General why he does not take it seriously enough to set up a task force in relation to this particular problem. In my opinion, and I'm sure the Solicitor General shares this particular concern, it is a serious problem. Why won't a task force be set up and why is the Solicitor General against this principle?

**Hon. Mr. Kerr:** Because a task force would be a waste of time. What would the task force accomplish? What would be the terms of reference? Who would be on the task force? I would assume you would have to have people from the fire marshal's office. What would they do? Travel around the continent and overseas to look at new methods of dealing with complicated incendiary fires of that kind?

[10:45]

We take the problem of fires very seriously; there is no question about that. The member just got through complimenting the fire marshal's office, and I would say amen to what he has said. They do a good job. If they are short of staff, of course, that will have to be corrected. But what would a task force do? Would it dissect various fires and the various causes of fires? That information is all known to the fire marshal's office—every type of fire imaginable has happened in this province—the causes of fires, whether they involve a warehouse, a single-family dwelling or a rooming house, and the type of fire alarm system that's required.

As I mentioned earlier in these estimates, at the present time a fire code is being drafted and finalized after at least two or three years of study and work by a committee which involves various ministries and includes the fire marshal's office. This is the type of in-depth study that's needed of measures that are required to prevent fires.

We get sort of task-force/royal-commission/inquiry-happy in this government as if they're a panacea. Usually their reports are shelved. I would suggest, if we require more people, that the money be spent for that purpose rather than on a roving group of people trying to find out why we have fires, the various types of fires and what steps can be taken to prevent them.

We have an excellent fire college at Gravenhurst, with the most up-to-date methods of

instruction and lecturing. I don't think we're short of any of the most up-to-date equipment necessary to fight and to prevent fires. I would have to be convinced, and I understand the fire marshal would also have to be convinced, that a task force of that kind is necessary.

**Mr. Lupusella:** The reason I'm suggesting this task force is that maybe we can get this information or data from the United States. It seems that in the United States they saw the validity of setting up this kind of task force and it might be worthwhile to get in touch with them to find out the extent of the study and what they're planning to accomplish with the task force. Maybe in that way we would find out whether or not there is a valid reason to set up such a task force.

**Hon. Mr. Kerr:** If there is any kind of study going on anywhere in this area, either in this country or in the United States, we would certainly be interested in knowing what the task force is set up to do and in benefiting from the results of that study if it can be of some benefit to us. Do you want to comment on that, Mr. Bateman?

**Mr. Bateman:** The situation is a little different in the United States from what it is here. Thank goodness it's quite a bit different. They have a very serious problem. We have a problem all right, but theirs is almost out of control. In the past, they haven't taken arson as seriously as we have; so they have some catching up to do. I think it is out of this situation that they established their task force.

**Hon. Mr. Kerr:** Do you know what the terms of reference are for that task force?

**Mr. Bateman:** I think it's just to co-ordinate various authorities that should have been involved in arson investigation—the police, fire insurance companies and so on—to establish a structure that pretty well exists in Ontario right now.

**Mr. Lupusella:** Maybe when the report is completed, you can request a copy and send us a copy as well.

What is the ministry planning to do in relation to unorganized communities like Hurkett which set up their own volunteer fire departments? A coroner's inquest recommended that the Ontario government make subsidies available to unorganized communities. It is a serious problem in northern Ontario. What is the minister planning to do to counter this particular problem? Is the Ontario government planning to make subsidies available, following the coroner's inquest? Maybe you can give us some highlights in

relation to unorganized communities in northern Ontario.

**Hon. Mr. Kerr:** As a result of a pilot project and a study conducted a couple of years ago, we established departments in three communities which were organized in 1976. These communities were supplied with tank trucks, pumps, hose, breathing apparatus, clothing and things of that nature. Fire chiefs and firefighters were appointed and received training. Each of these departments has been advised, trained and directed by the fire marshal's office. The communities maintain log books of all their activity.

There were initially three communities: Jellicoe, Minaki and Nestor Falls. They were established and fire stations were built there. A lot of this was done through local participation. They would have a local subscription for funds and volunteer labour would initially be involved. We would supply the training, and the equipment.

The same would apply to Minaki and Nestor Falls. They all have equipment now. This year there's \$300,000 in the budget for further equipment for, I believe, six more municipalities. New trucks have been delivered to those municipalities and departments have been established there for the most part by volunteer labour.

The Ministry of Northern Affairs is co-operating with us and working with our ministry to assist in setting up these departments and disseminating literature around the north to the various homes in those communities. There's a program now whereby we are promoting the use of smoke detectors in homes. We are subsidizing to some extent the cost of this equipment so that people will install them in their homes. We hope that that will be the best approach to reducing the disproportionately high rate of fire deaths in the north.

We've got an education program going on up there and a home fire safety program. We use slides, cassettes, films and lectures in these northern communities. Also there is a general discussion with lectures on fire hazards within the home and safety precautions that should be taken in areas of that kind where the houses are fairly remote.

There is not the density that we have down here and therefore the problems resulting from a fire, once a fire starts, of course, are probably greater than they would be where you have a full-time paid fire department with interlocking alarm systems. So we are moving ahead quite substantially in the north. It is just a matter of staging this so that eventually all the little communities in unorganized territories will be operating some type of fire department.

**Mr. Lupusella:** I would like to ask the Solicitor General: what is the present procedure taken when there is a fire where chemicals are involved?

I am making reference to a case which occurred in my riding, Dovercourt, around March. There was a leak of sulphuric acid and the whole street at Dufferin and Davenport was blocked for many hours. Of course, firemen were called, but I received a letter from the municipality stating that the department of health was not advised about the situation.

I am not sure if the fire marshal's office has a policy of notifying the department of health when a fire takes place in a municipality. In this case the department of health at city hall did not receive any particular communication from the fire marshal.

Can you explain what is the procedure in relation to notifying other departments which may have an interest in being involved? Why didn't the fire marshal get in touch with the department of health in this particular case?

**Mr. Bateman:** I have conferred with my deputy and I am not sure we were involved in investigating that fire. I could be corrected on that.

**Mr. Lupusella:** It was not a fire. It was a leak of sulphuric acid and the firemen were called.

**Mr. Bateman:** I see, yes. Our function, as you know—I don't want to give the impression that I am not concerned with chemical contamination of the environment—is to investigate fires and establish the cause and the consequences of the fire. I don't think we are the logical provincial authority.

In fact, this must be a local responsibility and apparently there should have been better local liaison in the case you are discussing. The fire department is there on the site and knows what is happening minute by minute. I certainly agree it is important that the local health unit be notified of situations like this.

There are discussions being pursued right now within the government to establish provincial preplanning for emergencies of this nature and we will certainly have our input and a role to play where there is a fire that we are involved in investigating. Perhaps there might be communications coming out of this to the local fire departments, so that a situation such as you describe won't recur.

[11:00]

**Mr. Lupusella:** I hope the Solicitor General will undertake this task. I am not sure who is supposed to get in touch with those particular branches—maybe it's the police de-

partment. The police are the first people appearing on the scene of those incidents, and I am not sure whether the police should get in touch with the municipal officials—perhaps the Minister of the Environment (Mr. McCague), for example, in this particular case. I heard that the Minister of the Environment heard the news on the radio.

I think this problem can be easily corrected if measures are implemented so that the various branches of the government and municipalities are advised about those incidents.

**Hon. Mr. Kerr:** To answer that question: First of all, it is important that whoever discovers the leak of sulphuric acid, for example, notifies either the fire department—which apparently they did in this case—or the police.

We have what we call a lead ministry organization which has really replaced EMO—which was the old Emergency Measures Organization—and when there is any type of emergency of that kind, there is a process through which the appropriate ministries would be notified, depending on the type of emergency.

That includes the Ministry of the Environment, the Ministry of Transportation and Communications, the Ministry of Health, our ministry, Natural Resources, local health units, of course, and local fire and police departments, as well as the fire marshal's office.

So that in the case you mentioned, to me—and as Mr. Bateman indicated—the local health unit and the Ministry of the Environment would be the important ministry here in respect to this type of emergency.

There wasn't a fire, from what you tell me; so that in order to maintain the emergency, contain the leak or the spill, the people from the health unit or the Ministry of the Environment should be on the scene and use whatever facilities from these lead ministries are necessary; it may be a truck, it may be just manpower; they may call from the local municipality or MTC or something of that kind.

So whether it is a snowstorm or whether it is a flood or a plant emergency of this kind, we have a method now whereby each is notified, and depending again on the type of emergency, each should respond.

**Mr. Lupusella:** In this particular case, it seems there was no channel to get in touch with those branches. I don't know where the problem lies. I don't know who is supposed to get in touch with those branches. I hope the minister is going to give a close look at this situation. It seems there are so many responsible people appearing on the scene

but nobody is getting in touch with the different branches.

**Mr. Chairman,** there is another problem which I would like to raise under this item: do you carry out any special inspections in commercial areas, where there are restaurants or where small businessmen are leaving their garbage outside their stores? I could read here a case, dated April 13, 1978, where arson caused a \$3 million fire, three weeks ago, which destroyed a major downtown block in Trenton, and last week fire destroyed about \$1 million in property in downtown Cobourg.

Do you have a particular inspection to make those small businessmen aware of what they are leaving outside their stores? I mean it seems they are paying a premium in dollars, \$1 million, I don't know. Do you have special inspections made in commercial areas, in particular, with regard to any particular fire hazards?

**Hon. Mr. Kerr:** Yes. In situations of this kind it's really a municipal responsibility as far as inspections are concerned. The municipalities operate their fire departments. They pay for them. They provide the men and equipment and they carry out the day-to-day inspections of mainly commercial and public buildings, such as nursing homes, hospitals, government buildings, homes for the aged, factories, shops and office buildings. Some of this may come under different legislation, but it is basically a municipal responsibility in the type of case you refer to in Trenton.

There are 647 fire departments in Ontario, and the fire marshal's office is not itself able to carry out all these inspections. But there is direction and instruction from the fire marshal as to how to carry out inspections, how often they should be carried out, whose responsibility it is, and things of that nature.

For example, the Ministry of Consumer and Commercial Relations inspects flammable liquid and gas installations in theatres, and through the liquor licence board it licenses hotels. The Ministry of Labour inspects factories, shops and office buildings; the Ministry of Community and Social Services inspects homes for the aged and charitable institutions.

In situations such as the member has mentioned, first of all I would say that there is some responsibility on the owner of the store, the operator or superintendent of that shopping plaza. They certainly should have made sure that any debris or garbage was cleaned up within a reasonable time, that



flammable material was properly disposed of. Some insurance companies, I understand, occasionally require inspections because they are reflected in the rates charged commercial operators for coverage. I would say, therefore, that the main responsibility here, the main onus is on the owner, superintendent or operator of the plaza, the owner of a building, and the local fire department.

**Mr. Lupusella:** The last question: If I may, I would like to have the results of the investigation of the fire which took place on Bloor Street just east of Dovercourt at the Woolco store. This fire paralyzed the community for three days. I think the fire took place during the wintertime, around January or February. The store is just across the street from my constituency office.

**Hon. Mr. Kerr:** You mean one of your political opponents made a mistake?

**Mr. Lupusella:** You never know.

**Mr. Chairman:** I trust you're not suggesting that they operate that way.

**Mr. M. N. Davison:** You're beginning to sound like Kojak with your sense of humour.

**Mr. Lupusella:** It seems I have completed expressing my concern under this item, Mr. Chairman.

**Mr. Stong:** Mr. Chairman, I had only restricted my questions to arson, and I opened it up because I understood Mr. Lupusella was going to dwell on that for some time too, but there are two or three other areas that I'm concerned about in this vote. First off, before I leave arson, I must say I've had an opportunity to peruse the material you gave me this morning, and I think that the fire marshal's office is obviously overworked and understaffed. They had to turn down last year 767 requests for investigations; to me, that really indicates the personnel is lacking. They're trying to do a Herculean task but they just can't fulfil it.

**Hon. Mr. Kerr:** We had a cut in OHIP premiums, of course.

**Mr. Stong:** Perhaps we should look to other support services in the community, such as insurance investigators and police departments in so far as they're able. What about the utilization of insurance investigators in this particular regard? Is there any co-operation there or do they work independently? Does the fire marshal's office just follow up leads? What is the situation here?

Regarding the 767 requests, I assume no one will ever get to those investigations, that they are left in abeyance and will never be investigated, but perhaps they really do deserve investigation. What happens to them?

How does the fire marshal's office co-operate with insurance investigators? I'll begin with that question.

**Hon. Mr. Kerr:** There seems to be some evidence that the fire marshal's office is not overstaffed; I'll put it that way. I noticed the turnaround of 767 requests. What type of requests are they? Are these private requests for investigation of private property, or are they requests from insurance adjusters and things of that nature?

**Mr. Bateman:** Almost all are from fire departments, I would say. They call in and we have to turn them down selectively on the basis of the information we receive from the fire chief. Some of them—I don't know what proportion; I don't think it would be too many—might be frivolous requests, where a fire chief perhaps has two fires a year in his jurisdiction and he feels they should both be investigated. Some of them may be important but they just aren't as important as all the other fires that we're investigating at the moment, and we have to turn them down.

As for insurance, we do work closely with the insurance investigators. There's a slightly different perspective, mind you, in the way that investigations are conducted. They're looking, almost exclusively, for the financial implications of the fire and for fraud, whereas we're concerned with all aspects of cause, fire behaviour, fire spread, cause of death and so on. I think we do complement each other and I don't think there's much overlapping or duplication. I'm not sure whether you're suggesting this; so I perhaps shouldn't disagree. I'll just state my opinion. I don't think they're really the answer to this gap that we have between the investigations we're able to conduct and the requests we receive, because they don't have quite the same motives that we have.

**Mr. Stong:** What role do the police departments play in your investigations? Does it involve simply laying a criminal charge if you dig up the evidence that merits it?

**Mr. Bateman:** If on the basis of an initial investigation it is apparently an incendiary fire, then they work along with us right through and will lay the charge if we are successful.

[11:15]

**Mr. Stong:** I don't think I can disagree at all with the minister that the fire marshal's office is not overstaffed. It seems to me that when we have to turn down that many requests we should perhaps be reassessing the situation and employing support services more or considering getting more investigators in

this area. I think we're sorely lacking there, particularly when we look at the statistics that have been given to us for these estimates.

**Hon. Mr. Kerr:** I have always wondered if we couldn't train more people at the local scene. In other words, you have a fire chief, you have a deputy fire chief, and you have your captains, lieutenants and what have you. When they're not tending a fire, I would assume some of them are on a continuous inspection program, a preventive program. I was wondering if some of the senior men couldn't be trained a little more at least to conduct a preliminary investigation. Then when you have a man you can assign to that particular case, some of the preliminary work has been done, if you'll pardon the expression, while the scene is still hot. It could then be followed up with a complete investigation.

I realize you're bound to get requests you don't feel are that important, but if you're getting this type of request from the local departments, maybe there wouldn't be so many if there were some basic ability or capability at the local level.

**Mr. Bateman:** Yes, I agree. We have made an effort to increase the training of municipal departments on a broader base in the past few years. The problem is it takes time from our investigation activities to train these people. I think that this is perhaps one way of trying to alleviate the increasing pressure of investigations in the future, if they can be more intelligently screened at the initial stage. We do give them instructions on this at the fire college.

**Mr. Stong:** I think there is merit in what the minister and the fire marshal say with respect to the utilization of the fire college.

I'd like to turn to the education program as part of this vote on fire safety services. I know it's a far cry today from what it was when I went to school, when firemen were going into the schools and teaching the children fire safety measures. My father was the fire chief in Richmond Hill then. He served as fire chief for 25 years until he died in 1972.

I remember in grade school he took it upon himself to come into our school and demonstrate the use of fire extinguishers. The whole school was lined up in the school yard in a half moon. The fire extinguishers were the kind you had to turn upside down to get the chemicals to mix. I was the person who held the nozzle and one of the other students turned the fire extinguisher upside down, but neither of us was watching. I remember the foam being sprayed all over the good sister who was standing there among us. Any part

of her habit that had been black was white when we got finished.

We never did have another one of those. When I got home that night I remember my father didn't know whether to hit me or laugh, so he did neither. It seems to me that there's a great deal of merit in using this type of education program where we educate people how to use these devices, particularly fire extinguishers.

I introduced a private member's bill and I was just wondering what your reaction is at this stage with respect to servicing this type of equipment in homes, factories, schools, places of entertainment. It seems to me that although we may all be educated in their use, if the device is unusable or the apparatus is inoperable, it doesn't serve the public very well at all. I suppose with our society becoming more aware of fire safety devices and measures, it may very well be that we should be instructing our children in the use of portable fire extinguishers and going into the factories and teaching the employees safety standards such as the use of fire extinguishers. If we are, what control will the ministry impose? Or does the ministry even see a need for control of these devices in the sense that they should be operable?

One of my constituents services fire extinguishers and uses a hydro static testing device to test for cracks in the barrels. He went to one of our local airports, took a fire extinguisher, put it under this pressure and developed a crack that he said would have caused this thing to blow up in the user's face. What good is a machine or a device like that in an airport that's frequented? There could be a fire at any time and members of the public are always in these places. It seems to me that he demonstrated a need that has not been met. If we are going to educate the public, we should also guarantee that the apparatus they are going to be relying on is workable. What percentage of your budget do you propose to devote to that type of education and that type of regulation, if any?

**Hon. Mr. Kerr:** As far as education is concerned, which is what the honourable member mentioned at first and he has mentioned his own experience, there are lectures given at different schools, there are volunteer citizens' groups to which people from the fire marshal's office or the local fire department distribute literature and give instruction in fire prevention, holding seminars and things of that nature. There are also a substantial number of publications that are issued by the fire marshal's office and

films on fire. These are to be found in libraries, as well as pamphlets and other types of information material.

There is fire prevention literature of course for the home owner: "Check Your Home for Electrical Fire Hazards," for example, and, "Evacuation Procedure for Schools." These latter are given to principals—as well as "The Planning and Conduct of School Fire Drills." There are safety rules for parents and babysitters. "Get Out Safely" is a guide to householders in the preplanning of family fire evacuation procedure. Of course, there are "No Smoking" cards, school fire evacuation cards and things of that kind, telling people not to smoke in bed, pamphlets for dealing with farm and fire, what to look for in your own home—wiring, heating equipment, appliances, things of that nature, your TV set—how often do fuses go out, for example; is it because your circuits are overloaded? Things of that nature. There are all kinds of instructional literature for use in the home.

The honourable member I believe is referring to the Portable Fire Extinguishers Safety Act, which I believe he was instrumental in introducing. I would be very receptive to this type of legislation. I suppose it's something that the people who are working on drafting the Ontario fire code should think about.

My information is that in public buildings, commercial buildings, schools and things of that nature any fire prevention equipment should be inspected on a regular basis. Hopefully either the person who has installed the equipment or the local fire department checks it from time to time. When you buy equipment for your home, there's a certain warranty that goes with that equipment. There's a certain amount of onus on the homeowner as well to make sure that it is working properly and to follow the instructions. The instructions include replacement of the batteries or whatever and testing of that equipment from time to time.

I think the honourable member will agree that to inspect every home for every type of safety device would be very difficult and very costly. The Canadian Underwriters' Association has certain basic rules and regulations regarding fire extinguishers. As far as public buildings go—and Mr. Bateman can correct me on this—I would assume that extinguishers and other types of equipment are subject to inspection from time to time either by our ministry or the Ministry of Labour depending on the location.

**Mr. Bateman:** Generally, that's correct. There's still a variety of inspection agencies

in the provincial government. In general, I'd say commercial and institutional buildings are inspected for fire safety purposes. This would include inspection of the extinguishers. I think that the concept of the bill, if it were enacted as law under some mechanism or other, would certainly ensure that these inspections are more seriously executed.

**Mr. Stong:** As I understand it, these fire-fighting devices, portable fire extinguishers, are serviced by freelance firemen or others working out of the back seats of their cars; so they are not subject to regulation. That's exactly what the situation was with respect to that fire extinguisher in the airport. That's a privately-owned airport but it creates a very real danger.

The purport of the bill is not to land the fire department or the fire marshal's office with more work, but to regulate anyone who undertakes to service these extinguishers so that it is done right and they can be held accountable for the work they have performed. That's the purport of the bill I introduced.

It seems to me we should be conscious of that type of thing. I'm not advocating that inspections be mandatory in homes, but where the home owner calls in an individual to service his or her fire extinguishers, that person should be able to rely on the competence of the person and that the job is done properly and sufficiently.

**Hon. Mr. Kerr:** I understand that most companies or manufacturers or distributors who sell fire extinguishers will enter into a contract with whoever buys this equipment to service them on a regular basis. That would include both commercial and private homes. It may be that these are the type of people who you say are firemen working on their spare time to carry out these inspections.

[11:30]

Just as a quick reaction here, I can't see any reason why there can't be a provision for licensing and regulation. The only problem as I see it would be the enforcement of it. If there is, say, a private contract between a manufacturer or distributor and a home owner, there would be remedies set out in that contract; and I suppose that anything by way of statute that would apply to such a contract would be of benefit to the purchaser.

**Mr. Chairman:** Any further person wishing to speak to item 3?

I have a couple of questions that I would like to ask Mr. Bateman, if I may; and I trust that the members won't wish me to leave the chair to do so. They concern the use of propane. I have a very large propane tank in the rural property that I own. I discovered



a large leak in it, and had it repaired by the company. I am wondering if you have any form of regular inspection of propane tanks or if it is left up entirely to the company to do inspections. Do they have regular inspections?

**Mr. Bateman:** There are provincial regulations and there are provincial inspectors, if they are called that, I am not sure. They are under the energy safety branch of the Ministry of Consumer and Commercial Relations. They do have regulations dealing with natural gas, fuel oil and propane. The regulations consist of a propane code, so I don't have the answers to your particular problem. But I am sure they would be only too glad to go and look at it if you are uncertain about the safety of the installation.

**Mr. Chairman:** My family was involved in the trailer-park business, and we never at any time saw an inspector. By the same token, we never had an accident. But when you have trailers fairly close together as in a trailer park, all that you would need I presume would be for one to blow and you would have several of them go up at the same time. Have there been any substantial numbers of fires with propane tanks in moving vehicles?

**Mr. Bateman:** I honestly don't have the figures. I think very few originate with the propane installation. They don't have routine inspections, I am sure of that. I know we get quite a few requests from home owners and others that are directed to us and we refer them to the energy safety branch which administers the regulations. I know they get somebody out to look at the problem fairly quickly.

**Mr. Chairman:** The other question that has come to me a few times is the use of Styrofoam insulation, particularly in the area which I represent. We have a lot of people who are finishing off basements and so forth, and there seems to be conflicting evidence as to whether it's safe or not with the gas coming from Styrofoam in a fire. I gather it's more dangerous than the fire, even though the Styrofoam is fireproof. I have talked to several builders. Some of them say, "This is the best insulation to use, it's fireproof." One or two others say, "We never use it because we consider the gas that can come from it in a fire is too dangerous." Do you have any comments on that particular product?

**Mr. Bateman:** We certainly recommend the same principle the Ontario Building Code follows. It's that if Styrofoam is used it

should be covered or enclosed with a non-combustible membrane like gypsum board. That won't prevent it being involved in a serious fire but it will be reasonably good assurance that it won't be one of the first items to be involved.

**Mr. Chairman:** Most people are covering it with particle board at the moment, are they not?

**Mr. Bateman:** Yes. I would say the do-it-yourself people are covering with plywood or particle board. In new buildings, it must be covered with a non-combustible material like gypsum board. But I expect, people finishing their basements wouldn't come under the code for a minor renovation of that sort. Sometimes they consult their local fire department and I think the fire department would invariably recommend a gypsum board covering. The particle board is not useless though. That will withstand a certain degree of heat and fire and give a certain amount of time before the Styrofoam does become involved.

**Mr. Chairman:** You are saying they are covered by the building code, yet as late as Monday one builder told me to insulate the basement in a place I am in the process of building with Styrofoam. He never mentioned any covering of it and he simply said it was better than using Micafil, which I had suggested to be put in between the bricks. So here's a builder giving advice contrary to what you consider to be safe procedures.

**Mr. Bateman:** Yes, and I would say contrary to the building code too.

**Mr. Chairman:** Do you suppose he's getting away with it because he was suggesting that I do it rather than that he do it?

**Mr. Bateman:** He might be getting away with it; I don't know the municipality involved. But the building code is administered by the local building inspector and it has been in effect for two years and some of them are still learning it.

**Mr. Chairman:** I suspect this fellow's a little beyond the stages of learning, but I shouldn't say that until I get my permit. Fine, thank you. Mr. Ziemba.

**Mr. Ziemba:** Just one short question. There has been a government program urging people to keep low to avoid the noxious fumes in case of fire and yet there is a smoke detector firm that has its salesmen, as part of their sale spiel, saying just the opposite. They say the toxic fumes are at the floor level and the family pet is the first to be overcome in case of fire. Who is right?

**Mr. Bateman:** They could be both right depending on the nature of the fire. If I were giving advice that was to be as simple as possible, I would say keep low because the predominant characteristic of fire is that warm air is going to rise and the warm air is going to carry the toxic fumes. We do get special situations where there are synthetics burning that give off combustion products that are heavier than air and even though they are warm they might settle at a low level, but I would say these would be rare situations and fumes normally go to the top.

**Mr. Ziembra:** Are you aware that some of these smoke detector firms are using scare tactics to sell their product?

**Mr. Bateman:** I would have to say so because they all refer to potential loss of life and I suppose that's trying to scare somebody a little bit.

**Mr. Chairman:** If it is of any satisfaction to you, while sitting here listening to the estimates, you scared me enough that I went out and bought two smoke detectors, so you do a good enough job yourselves.

Any other person on item 3?

Item 3 agreed to.

On item 4, coroners' investigations and inquests:

**Mr. Stong:** I notice that there are 380 duly appointed coroners in the province of Ontario. Can the minister explain how the coroners are paid? Is there a tariff? Do they get paid for service or by daily remuneration? And what is the status of that remuneration?

**Hon. Mr. Kerr:** There is a schedule of fees. They are paid so much a call. I think it is around \$50 a call. Is that right, Dr. Cotnam?

**Dr. Cotnam:** Yes.

**Hon. Mr. Kerr:** That is for an investigation.

**Mr. Stong:** It doesn't matter what they do? Whether it is just attending the scene or whether it is actually—

**Hon. Mr. Kerr:** They are supposed to do an investigation of each case. Some are rather simple, some are more complex. But they get the \$50 flat fee on a fee for service basis.

**Mr. Stong:** With your amendments to the Coroners Act yesterday, Mr. Minister, will coroners still be required to visit nursing homes in the event of a death?

**Hon. Mr. Kerr:** Yes.

**Mr. Stong:** I noticed you changed "private hospital" to "facility." Does that include—

**Hon. Mr. Kerr:** What we did in amending the bill, I believe, is include two more types

of institutions. We are really expanding the existing provisions. Section 9 (2) of the act lists the various institutions where there must be an investigation.

**Mr. Gow:** Paragraph (h) still requires an investigation for nursing homes.

**Mr. Stong:** That basically requires the coroner to view the scene and submit a report, I assume.

**Mr. Gow:** That's true, and to determine if further investigation is required.

**Hon. Mr. Kerr:** If "he is of the opinion that an inquest ought to be held, he shall issue his warrant and hold an inquest upon the body." This is different from the normal provision in that it is mandatory to have an investigation in every death in these particular institutions.

**Mr. Stong:** When I was looking over the background material which you supplied for these estimates, I noticed that in the statistical reports for the coroners there are several pages that list the type of accident or the type of death. You are dealing with inside the home, outside the home, in schools, in construction, and you also categorize these columns by accidental, suicidal, homicidal, undetermined or total. How does the coroner arrive at this statistic? Does he arrive at "suicidal" in co-operation with the police department so that, if the police department rules it to be accidental or homicidal, will he put it in as such in the statistics? Are these statistics based on his findings or do they result from charges being laid? For instance, under homicide I notice that beatings with blunt instruments account for 21, stabbings for 24, et cetera. And there are an awful lot of suicides listed. Does he depend on the police department in compiling that statistic?

[11:45]

**Hon. Mr. Kerr:** I would ask Dr. Cotnam to comment. Usually in a situation like that the police are called in first. If there's a death then the other services or facilities of our ministry may be called in, whether it's a pathologist, the coroner's office, or somebody from forensic science. They could all be involved in the investigation and in ascertaining the cause. It really depends on the type of investigation, whether the cause of death is natural, accidental, suicidal, homicidal, or undetermined but if there is a situation where there's some question as to how the deceased came to his or her death—by what means, how, why, where and when—the coroner's office is called in, unless there's some mandatory provision for an investigation such as

in certain institutions, or somebody in custody, or under the Mining Act.

**Mr. Stong:** Perhaps. I notice, doctor, there were 282 inquests held last year, in 1977. I can tell by adding these figures up that these determinations were not the result of an investigation or an inquest, but does the coroner rely on the police findings in compiling his statistics?

**Dr. Cotnam:** Police are involved in most investigations; sometimes initially we're called by the police or if we're notified first, we call the police. They're involved in a great percentage of our investigations and of course, our Centre of Forensic Sciences is involved in a great number of our investigations, as are our regional pathologists throughout the province. Roughly about one third of our cases come to autopsy. When we add all the findings together, our own findings and maybe those of other experts, plus police, plus the lab findings, plus the pathology findings, then we identify the case and fill in the death certificate. On there it calls for the cause as suicide, homicide, accidental or natural causes. So it is the judgement decision in the end, I guess, of each coroner on how he is going to categorize the case.

**Mr. Stong:** Is there any interplay between the coroner's office and the insurance companies? I would assume that if, according to your listing, there were 976 suicides in homes last year—which seems to be an extraordinarily high figure, it's even higher than accidental deaths—I assume that would have some bearing on whether insurance policies are going to be paid or not. What role if any, does the insurance investigation play in the coroner's decision?

**Dr. Cotnam:** Not really any, although the insurance investigators are after us every day for information which we will not supply to them except on authorization of the family. If we get a written authorization, we'll give the insurance company whatever information they're seeking. But there certainly is a confidentiality between our office and the next of kin, so to speak, unless we have a written authorization to release certain information.

**Mr. Stong:** Those are all the questions I have on this particular part.

**Mr. Chairman:** Fine, thank you, Mr. Stong. Mr. Lawlor, followed by Mr. MacBeth.

**Mr. Lawlor:** Oh, I think I'll pass. We have a new Coroners Act before us in the House and my acerbic remarks may be retained until that time, except for one thing: I would seek to prevail upon the minister. There are some rumours about that you would scuttle your

own legislation if the opposition insists adamantly upon certain revisions that are being suggested.

Now I sit in abeyance, of course, reserving myself to hear what the good reasons of the minister in this regard might be, but what is being proposed seemed to me, in caucus and in public, eminently sensible. But sometimes there is a tendency to get one's back up on too egregious an opposition and that sort of thing. I would gently use suasion to say to the minister what is being proposed should be given very good consideration indeed. It certainly carries out in its plenitude the purposes of the statute as originally designed and in its overall intention. I am not quite sure why any resistance should be forthcoming.

**Hon. Mr. Kerr:** Is the honourable member referring to the amendment proposed?

**Mr. Lawlor:** Yes, I am referring to the amendment proposed.

**Hon. Mr. Kerr:** Dr. Cotnam, I think this is a great opportunity. I have said about everything I can say on that proposed amendment. I don't know if you have the bill in front of you, but I am talking about section 3 of the bill, which starts on page one, and more particularly subsection 4a at the top of page two referring to a death in a mine, where the amendment changes it to include the work place.

In other words, that covers just about every person who works in Ontario in an office, or drives a cab, or works in a restaurant, or store. If there is a death by accident, there is a mandatory requirement for an inquest.

I wonder if you would care to attempt to convert my friends, Dr. Cotnam?

**Dr. Cotnam:** Well, it depends on the wording in the end. I think certain wording would be almost unworkable for coroners or they would be up day and night and we would have coroners' juries going 365 days of the year all the time.

Really, 4a was a transfer of mandatory inquests in mining deaths from the Mining Act to the Coroners Act.

We have three types of mandatory inquests; we always have had, in mining deaths, deaths in custody, and deaths after judicial execution—we haven't had any of the latter since 1962 and I don't anticipate we will have many right at the moment. So we still have, really, deaths in custody and mining deaths both in the Coroners Act now, instead of mandatory mining deaths being in the Mining Act.

The only reason we changed it a bit to exclude a pit or quarry is because we have had some very useless inquests. By defini-



tion a mine includes a pit or a quarry. Now, if it is a workman working in a pit or a quarry, there is still going to be an inquest. But if it is some foolish person on a Ski-doo who drives into a quarry in the wintertime, or maybe a drowning in a quarry, there may or may not be an inquest which we were forced to have before because of the definition of a mine.

If you include workshop or work place—I don't know what the definition is of that, or how extensive it would be to impose mandatory inquests on coroners, but I will investigate it. It is the mandatory inquest that I would be a little reluctant to go along with.

**Mr. Lawlor:** What I think some of us were concerned about is that type of work place, particularly those, mostly factories, in which there are chemicals or toxic substances of one kind or another which, from the word go appears to have been involved somehow in the death. That's certainly what I was thinking about particularly. Would there be any great objection to the simple extension or a fairly strict definition of the work place?

**Dr. Cotnam:** No. I might say further, apart from mining deaths, nearly any death would come under the Industrial Safety Act or Construction Safety Act, we are holding those inquests now.

**Mr. Lawlor:** Well isn't it better then to have that in the statute? Why not spell it out a bit if you are going to do it anyway? You are doing it relatively informally under other sections, and you have a whole series of conditions, (a) to (e) in section 25, which make it mandatory that you have an investigation in those cases.

I am just wondering if a greater clarification of the amendment would quell the ructions in the Legislature which have been going on for many months past over conditions of industrial safety and health and all that. This is an evolving field and since you are revising your legislation anyhow, perhaps it would be just as well to give it a greater fullness, perhaps not going quite as far as is being indicated.

One bad turn deserves another. You take an adamant stand in one direction and you can quite well anticipate that could get reciprocal and equal reaction, as Newton said.

So I think something should be written into that legislation bringing it into line precisely with what the doctor is saying.

**Hon. Mr. Kerr:** Maybe the other party can bring us to our senses. We are at opposite streams.

**Mr. Lawlor:** I was hoping on so pleasant a morning you would be stimulated to that.

**Mr. Chairman:** Any further questions?

**Mr. Lawlor,** on that question which you weren't going to ask, you used a word on which I have just done a poll of about five members and none of them knew what the word "egregious" meant. I wonder if you could spell it for us or give us a definition?

**Mr. Lawlor:** E-g-r-i-g-i-o-u-s. I am sure everybody up in Hansard knows that.

**Mr. Chairman:** Would you give us a definition?

**Mr. Lawlor:** Outrageous, extraordinary, unlikely.

**Mr. Chairman:** Mr. MacBeth, being an English teacher, was very concerned about the word, I am sure.

**Mr. MacBeth:** I am afraid I wasn't much help to you, Mr. Chairman, in trying to give you an interpretation of it, nor was the deputy minister, but we are much enlightened because of Mr. Lawlor's attendance here this morning.

**Mr. Lawlor:** If you really want to know, it means absurd.

**Mr. MacBeth:** I wanted to follow up the subject we have just been talking about. I got into the debate on it a little bit last evening and I was concerned with two points: first of all, the cost, if we made this mandatory in all industrial deaths. Cost cannot be the primary function in that sort of thing. But cost, if it's not going to accomplish anything, should be our proper concern.

I feel if inquests were mandatory on all occasions it would put us to needless expense and we, as keepers of the treasury, should be concerned about that.

But there are other factors. We look upon a coroner's inquest as a good thing. It will bring out facts and information and that is all to the public good. But some of us forget sometimes there are disadvantages in a coroner's inquest, inconvenience to the citizens involved and, of course, even when there is a coroner's inquiry, often a great inconvenience to the bereaved, who wish to have the body released as quickly as possible so they can get on with their own funeral arrangements.

I recall, when I was Solicitor General, I had calls on many occasions from relatives of the deceased who wanted to know why the delay and why hadn't the coroner released the body. So a coroner's inquest is not necessarily a good thing.

But without trying to make cost the main complaint against it, I want to know some

of the costs involved. I wonder if Dr. Cotnam could give me some information on, first of all, the amount of time entailed in an ordinary or average inquest, the number of hours? I'm thinking of the hearing itself, not the preparation, just the hearing.

[12:00]

**Dr. Cotnam:** You're talking about an inquest, sir, not an investigation?

**Mr. MacBeth:** No, an inquest, that's what the amendment was asking for, an inquest.

**Dr. Cotnam:** I don't know what they are. I haven't got the average time here, sir.

**Mr. MacBeth:** I'm just—

**Dr. Cotnam:** We could work that out, but most inquests now are relatively long procedures, as you know. They've come down in numbers in the years, down to 282 last year, but most of those will run anywhere from two days to five days, to two weeks, to five weeks. They are very expensive operations, tying up a doctor, the coroner, tying up a crown attorney, tying up expert witnesses, tying up jurors for all these weeks away from their jobs or whatever. The ones we do I think are absolutely necessary. But I don't think we should be forced into doing unnecessary inquests. Apart from the cost, there is a great inconvenience to a great number of people.

**Mr. MacBeth:** Now I know there are court facilities available to you in the Drew Building in Metro Toronto, and sometimes, I gather, even those are not sufficient. But in other municipalities you have to rent buildings to have inquests don't you?

**Dr. Cotnam:** We rent facilities in many places now because there are insufficient court facilities. One very good example is Sudbury. I don't think we've held an inquest in the last two or three years in court facilities in Sudbury. We rent rooms all the time, at the Holiday Inn or wherever we can get a room, and I believe they are doing this in other areas of the Justice field too, not just with coroners' inquests.

**Mr. MacBeth:** What would a day's rental at the Holiday Inn for a suitable room cost, \$100 a day?

**Dr. Cotnam:** One hundred dollars a day plus about five other rooms, one for the coroner, one for the crown attorney, one for the jury, one for other counsel—it's usually a big room plus about five other rooms.

**Mr. MacBeth:** And what would a coroner charge for a day's investigation?

**Dr. Cotnam:** It depends on the number of hours that they work; there is a schedule of fees.

**Mr. MacBeth:** I'm not asking any binding statements on these, I'm just trying to work to approximations.

**Dr. Cotnam:** He might get \$100 to \$150 for his fee for the day, depending on the number of hours they sit, if they go into the evening and so on. Then, of course, you've got a crown attorney tied up—

**Mr. MacBeth:** And witnesses' fees, \$6 a day?

**Dr. Cotnam:** Witnesses get \$6 a day, plus expenses.

**Mr. MacBeth:** They are probably the smallest.

**Dr. Cotnam:** The jurors get \$6 a day, plus expenses.

**Mr. MacBeth:** For the jury, plus expenses.

**Dr. Cotnam:** If we have experts involved, and we do have experts involved at most inquests now, this may be a surgeon or an engineer or whatever, and they usually charge \$200 to \$300 a day.

**Mr. MacBeth:** Do you have a court reporter?

**Dr. Cotnam:** —court reporters' fees, and they are paid, I think, \$50 a day now.

**Mr. MacBeth:** And preparation by the crown attorney and your own officials. Would I be wrong to say you wouldn't hold an inquest at less than \$1,500?

**Dr. Cotnam:** I think that would be a reasonable figure.

**Mr. MacBeth:** All right. Now the other statement I would like to make. It seems to me if they became mandatory on all occasions that by reason of their frequency and routine they would not attract the same emphasis, public interest, newspaper coverage or whatever, as the ones you have at present. I think if you had them automatically it would perhaps become easier to cover up or do them in a perfunctory way than if you only held them where a coroner in his wisdom deems them to be necessary. There may be room for some kind of movement on the part of the Solicitor General, but whether or not inquests should be made mandatory in every case you can see some of the costs involved, the inconvenience to the public and to the next of kin. Although it may sound like a good thing, I believe it should be considered very carefully before the province is pushed into that position.

**Mr. Stong:** Dr. Cotnam, I was just going through your figures to try to ascertain, if

the amendment went through as proposed, how many inquests there would be. I can't relate it to anything in here. For instance, we have industrial deaths, we have a lot of unnatural deaths, I assume. Do you have any idea how many inquests would be required if the amendment went through? I can't find any figures in here that I could relate it to.

**Dr. Cotnam:** I don't know just exactly how I'd relate to that, but there'd probably be another 150 inquests or something like that—that's just speculation—if you made it mandatory to hold them in every single case instead of the coroner being able to use some discretion. Where he knows it's not going to serve any useful purpose, it's just going to cost a lot of money and cause a lot of inconvenience to people, he is not going to hold one.

Mind you, I think there's ample authority in the act right now—not this amendment, but our own Coroners Act of 1972. If the local coroner says, "I am not going to hold an inquest," there is all kinds of authority in there whereby I can overrule him on that. If I think he's letting one slide by, as it were, because he thinks it won't serve a useful purpose, I can overrule him. In turn, the minister can overrule me again.

Presumably they could run to the coroners' council if they thought there should be an inquest. They could go to the Ombudsman too if they exhausted all other avenues, but I think there are enough steps along the line that we are really not going to miss any inquests which should be held.

**Mr. M. N. Davison:** There's going to be a lengthy debate in the Legislature and outside the Legislature on this particular issue, which is one we don't have to enter into at this time. It's an extremely difficult issue, because on the one side of the balance sheet we're talking dollars and on the other side we're talking about human lives. Those are always difficult judgements for us as politicians to make, but it's something we have to come to terms with more frequently than we would like. It's something we're coming to terms with again.

I have a question, though, outside of that. It deals with coroners, particularly in smaller communities or areas with less population per square mile than the area I represent. As I understand it, the coroner works in a part-time, on-call capacity, and as such is often maintaining a regular medical practice. I became aware of an incident a while ago in which the relatives of a worker who died on a work site charged to me that the coroner had been the doctor for that particular com-

pany and they were very suspicious of the coroner's findings.

After checking it out I found that could not be substantiated. The doctor was not a doctor for the company that could possibly have been investigated for negligence. Is there any stricture in the legislation or in regulations or guidelines anywhere that a coroner cannot investigate an accident at a work site in which he has an interest, if he is the doctor for the particular company?

**Dr. Cotnam:** It's not in legislation. We have it in a coroner's code of ethics, and of course we teach this at every course, that they're not to have a conflict of interest whatsoever. If so, they can get in touch with my office and we will transfer the case to another coroner who has nothing to do with that mine or that hospital or whatever the case may be.

In the first instance, a coroner in some of the northern communities where there is only one coroner in 100 miles perhaps has to take on the case immediately to get things started for the next of kin, the funeral director and so on, and he may be wearing three or four hats in that community. He may be a medical officer of health, he may be the railroad doctor, the mine doctor and the coroner, because he's the only doctor there. He may initiate proceedings, but then we will take it out of his hands and transfer it to somebody else, particularly if it is a bad case that is going to come to an inquest. We don't allow him to carry on with it.

I don't know whether you are acquainted with this, but we have a system of so-called regional coroners throughout the province. There is provision in the Coroners Act for the appointment of regional coroners, and the province has been divided into nine regions. Six appointments have been made to six regions. These are full-time public servants the same as myself. They, in effect, are the immediate supervisors of the local coroners within their respective regions. So we have this man who can take over any complex or lengthy investigation, or one where there appears to be a conflict of interest.

**Mr. M. N. Davison:** When you speak of a code of ethics, obviously it doesn't carry any statutory strength. Is it in written form?

**Dr. Cotnam:** It is in written form. I believe I have a copy of it here.

**Mr. M. N. Davison:** Is it a document that could be given to the critics of the Liberal Party and the New Democratic Party? I think they may find it very useful in dealing



with this section of the estimates in the future and perhaps in the House.

**Dr. Cotnam:** The code of ethics covers other things naturally, but I believe most organizations do have that today. The crown attorneys have a code of ethics, the medical societies and so on.

**Mr. M. N. Davison:** Mr. Minister, has there been any thought given to putting some of the things that are in this code of ethics, which I haven't yet read, into the legislation?

**Hon. Mr. Kerr:** Not really. They felt it was better outside. I think the chief coroner feels that way. They have methods by which they can deal with it. I suppose it is something like the law society or the Ontario Medical Association. Whenever there is any appearance of a conflict of interest of any kind, as Dr. Cotnam has said, they are removed and somebody replaces them.

I think one of the great forces that require that this code be adhered to is the fact that if there is an inquest, and there is any question, of course, it can be aborted because of the possibility of a conflict and you would have to have another one. I think that applies in the legal fraternity in many cases as well. I guess it has been considered, but they decided to leave it the way it is.

**Mr. Wilson:** That was a recommendation of the law reform commission.

**Dr. Cotnam:** I think it was Chief Justice McRuer who really advised that there be a code of ethics for coroners, but not necessarily in statute.

**Mr. M. N. Davison:** One final question: Are there any cases when the coroner calls in the family physician of the deceased person for the autopsy? Is that a normal practice or a practice that rarely occurs? What is the status of that?

**Dr. Cotnam:** To call in the family physician to take part in the autopsy?

**Mr. M. N. Davison:** To observe, I suspect, rather than take part.

**Dr. Cotnam:** To observe? It is not a policy.

**Mr. M. N. Davison:** It is something that doesn't occur frequently?

**Dr. Cotnam:** No it doesn't occur frequently, because we consider a medical-legal autopsy to be a rather confidential thing at that time. We may release information to him later on, or we may seek information from him in advance as to what went on in this case, or we get the medical records, et cetera, for the information of the

pathologist. It is not standard procedure at all for the attending physician to attend a forensic autopsy; a hospital autopsy, yes, where next of kin give consent, but these are being done under coroner's warrants and we never know what we are going to find, and at that particular time this information is confidential.

[12:15]

**Mr. M. N. Davison:** Thank you very much. You have been quite helpful.

**Mr. Chairman:** Does the minister care to make some comments?

**Hon. Mr. Kerr:** No, I think the questions have been all answered. The only thing I might say about Mr. Lawlor's comment is that what he says is not true; I would rather discuss and negotiate and plead, and maybe even do a little armtwisting, in making sure that the final bill we introduce in the Legislature is the best possible legislation dealing with a very sensitive area.

I think some of the comments that were made here this morning indicate why it is important that we realize the total ramifications of any amendments to the Coroners Act. This has been excellent legislation, and one of the reasons for that is because it has been updated and amended from time to time because of the experience and recommendations of the chief coroner and those people who are acting as coroners in the province. We are continuously improving the legislation and the office is continuously expanding and perfecting its operations.

We don't have the problems that existed a few years ago. You will recall the member for High Park in those days seemed to have almost a daily question on the operation of the office. That doesn't happen any more, in spite of the fact that there have been some very lengthy and complicated inquests. I think if we pay some attention to the experience and the record of the coroner's office we can't help but put a great deal of stock in that office's recommendations in respect to any amendments that we might have to legislation.

It is not a question of dollars versus human lives at all: it is a question of effectiveness and the efficiency of that office. I think Mr. MacBeth made some points that are quite valid and legitimate. The fact is that in many cases there are next of kin who object very strenuously to a holding of an inquest. That, of course, does not affect the coroner's decision if an inquest is necessary. But to have an unnecessary inquest in circumstances of that kind I would think is not serving the public properly. These are the things we have

to think about, but I am satisfied that as we debate this legislation in committee reason will prevail and we'll come in with the type of good legislation that has been the hallmark of this particular branch of government.

**Mr. Chairman:** Before moving to Mr. Lupusella, Mr. Lawlor, was yours a supplementary question or did you just want to be put back on the list?

**Mr. Lawlor:** It is supplementary in the sense it arises out of certain comments that Dr. Cotnam made. Have you had occasion to either override or order in the face of a local coroner's decision?

**Dr. Cotnam:** Oh yes.

**Mr. Lawlor:** Fairly often?

**Dr. Cotnam:** No, I would say rather infrequently. Actually, what the local coroner usually does if he is in doubt is call to our office and we have a discussion about it. I will give my advice on that matter, and he usually follows my advice. If he appears to be hostile or have any conflict whatsoever I will say: "That's fine, we are going to hold an inquest anyway and I am going to take you out of it." It is just as simple as that.

**Mr. Lawlor:** My only other question—I may as well get it out—has to do with disinterments. Do you run into that quite often? What is the score on that?

**Mr. Stong:** No pun intended.

**Dr. Cotnam:** Not frequently, but we do have disinterments each year.

**Mr. Lawlor:** Do you have quite a few?

**Dr. Cotnam:** No, not quite a few, but a minimum each year. I think we had two last year. We have two or three a year. That's done through our office or the ministry. There may be other disinterments ordered by courts or for some other reason that has nothing to do with me.

**Mr. Lawlor:** Do they usually rise out of the inquest itself?

**Dr. Cotnam:** No. We usually hold a disinterment to do an investigation. Further knowledge has come to us where we feel a disinterment is necessary to prove or disprove this additional information. We did one a month ago. That was in the case of a gentleman who died in Trinidad. The body was shipped back here, and there were allegations of police brutality at the other end of the line. His mother here was quite upset.

He had been an Ontario citizen. He was buried outside Metro. We couldn't get any information from Trinidad whatsoever through the consulate or anybody about what police investigation there was or whether there was

going to be an inquest and so on. In the end, we disinterred that body to see for ourselves what was the cause of death.

**Mr. Lawlor:** Would you mind telling me what you found?

**Dr. Cotnam:** We didn't find exactly what we thought we were going to find out. We had heard there had been an incomplete autopsy. I don't think that was true at all.

**Dr. Bennett,** you were at the disinterment. Perhaps you could tell Mr. Lawlor.

**Dr. R. C. Bennett:** We didn't really find any anatomical cause of death.

**Mr. Chairman:** Can you identify yourself? Just sit at the desk and use the microphone.

**Dr. Cotnam:** Dr. Bennett, the deputy chief coroner.

**Dr. R. C. Bennett:** Because of these allegations, we were forced to do the disinterment and an autopsy. Dr. Hillsdon Smith carried out the autopsy. He couldn't find any anatomical cause of death. Because of the length of time—four months, I think, was involved—and because the body had been embalmed, we couldn't do any toxicology. All we could determine was that there weren't any signs of violence on the body. There weren't any bruises or fractures, et cetera. It relieved the parents in that respect, in that nothing like that was determined.

**Dr. Cotnam:** I believe they're going to hold an inquest, or have now.

**Dr. R. C. Bennett:** As far as I know, the inquest was held at the end of April, but we haven't been able to obtain any information from External Affairs regarding the results.

**Mr. Lupusella:** I don't want to prolong my argument in relation to what I made clear last night in my opening statement in dealing with the particular amendments which we introduced in the House. We made clear the particular concern of our party. I don't think the Solicitor General convinced me and my colleagues to change our minds, and I hope he didn't convince members of the Liberal Party to change their minds as well.

When I became the critic of the Solicitor General, in dealing with this particular issue, the coroner's office, I was particularly attracted by the motto: "We speak for the dead to protect the living." That's the principle which we have to address ourselves to in relation to the amendments which we have put on the floor of the Legislature in order that industrial deaths are going to be investigated by a coroner's inquest to eliminate particular problems and particular loopholes

which exist in the work place. I think that's the benefit we are going to get if the Solicitor General is firmly convinced that a mandatory inquest should be incorporated into the statutory legislation which presently exists.

I remember in 1977 I praised the operation of the coroner's office. This particular service is important in the province of Ontario. I appreciate the recommendations which are suggested at those inquests. I think the public would like to get an explanation or would like to know the kind of recommendations which are coming from this office, considering that taxpayers are spending \$4,650,000 on its operations.

I don't have any particular regret about this expenditure. I think the service is important. I don't agree with the kinds of questions the former Solicitor General (Mr. MacBeth) was raising to not justify the amendments with which we are particularly concerned. I want to get into the statistical data as well. I don't think that the extra money is so much relevant if we are going to deal seriously with this particular topic. We are dealing with human beings who died at the work place.

This government didn't do a good job to prevent those particular accidents. Through the years we see more deaths on industrial sites as a result of law enforcement which is almost non-existent in the province of Ontario. I don't think the Solicitor General should use the same scare tactics used by the Minister of Labour (B. Stephenson) in relation to Bill 70. That is what he is doing and I don't think there is any need to do that.

We welcomed last night the kind of recommendations which were proposed in Bill 86. We praised those recommendations that make more effective the kind of work which is performed by the coroner's office, but we found out that the particular amendments to which we were addressing ourselves are also important. I don't think the dollars and cents which the Solicitor General and the former minister have been emphasizing have any input to persuade us not to accept those reasonable amendments. The recommendations which will come from those inquests on industrial sites and places will help us to make and to implement the kind of recommendations which are required to improve the situation in the work place. Talking about money, I hope I'm going to convince the Solicitor General that the extra expenditure shouldn't prevent him from implementing the kind of recommendations which have been put on the floor of the Legislature.

It seems that in 1976 the coroner's office investigated 27,700 sudden deaths. That's the total number. I don't know how many cases are going to be investigated in 1978. If we are going to incorporate in section 3(4a) the kind of amendments which we have been introducing, maybe we are going to talk about another 400 deaths which have taken place in the province of Ontario every year in the work place. I think the extra expenditure is really small when we are now dealing with 27,700 sudden deaths.

[12:30]

Last night I emphasized how many industrial deaths have taken place in the province of Ontario. Statistical data has been given to us by the Workmen's Compensation Board. I don't have the figures here, but I think we are dealing with 300 more cases every year. If we are going to increase the number of coroners by maybe two or three, they can deal with the 300 cases which are taking place every year in relation to sudden deaths on industrial sites in the province of Ontario.

I really don't understand the kinds of questions which the former Solicitor General was raising about the extra expenditure. If we are talking about Sudbury, maybe a courtroom is required. I think northern Ontario deserves one. It's time to move in this particular direction, not just for the use of a coroner's inquest, but to pursue those civil or criminal trials which are taking place; I don't know where at the moment if they don't have a courtroom. They are now using the hotel.

**Hon. Mr. Kerr:** A courtroom is not available?

**Mr. Lupusella:** One is not available.

**Hon. Mr. Kerr:** There is a courtroom in Sudbury but it was never available to you, is that what you're saying?

**Dr. Cotnam:** That's correct.

**Mr. Lupusella:** Maybe you can expand this courtroom. I don't think you're going to deal with 100 cases in northern Ontario in relation to sudden deaths which are taking place in the mines. Maybe you are dealing with three or four cases every year. Where is the extra expenditure which we are talking about? If you are going to follow the statistical information released by the Workmen's Compensation Board, you are going to deal with less than 300 deaths taking place in the province of Ontario at industrial sites.

I don't think the Solicitor General has a valid argument to convince me or my party



and I hope the Liberal Party as well. The public deserves this kind of service on industrial sites. They want to know the reasons those deaths are taking place. They want to know what kind of measures have been taken by this government to prevent further deaths. The Solicitor General and his government have an obligation in relation to the serious problem which is affecting industrial sites in the province of Ontario. I don't think there is any justification for deaths while people are working on a daily basis. We have to take any possible measure to prevent these deaths. The recommendations which are going to be suggested by coroners' inquests are going to be valid and useful to industries. This government is going to have to show some concrete obligation to the province of Ontario and to the working people in the province.

In section 3(4a) the kind of amendment already in the bill introduced by the Solicitor General includes deaths taking place in mines. I don't think that was a favour given by this government to the workers and to the miners. It is the workers' union, in particular Local 6500, which has been fighting for this particular amendment for years. They made this presentation when they appeared before us in the resources development committee when we dealt with Bill 70. They expressed this concern and they have expressed this concern in past years. Since this amendment was incorporated in Bill 86, we should say thanks to Local 6500 of the Steelworkers Union. That's a matter of fact.

I hope the Solicitor General is going to give our amendments serious consideration. They are reasonable amendments. I don't think he should worry about the extra work the coroner's office is going to be engaged in and I don't think it will involve an astronomical financial expenditure. I don't think he convinced me—and I hope he won't convince the Liberal Party either—to withdraw the amendments or to withdraw the full bill.

Last year I suggested that the coroner's office should present an annual report. I expressed this particular concern to the former Solicitor General, but there was no particular section in Bill 86 dealing with this particular issue. I would like to have an answer on that.

**Hon. Mr. Kerr:** That was raised in one of the amendments proposed in this bill. I indicated last night that there is no reason for a separate annual report from the chief coroner's office. The ministry has an annual report in which is included all the various branches and agencies of the ministry, includ-

ing the chief coroner's office, and I feel the format should continue the way it is now. There's no reason why the section dealing with the chief coroner's office cannot be enlarged.

I've noticed over the years there's been more and more information included in that particular section, including statistical summaries and things of that nature. Many of the things the honourable member is talking about could be included in this section of the annual report. The section could be enlarged, for example, to include the number of recommendations and more details about those inquests that have been held. That information is all available in the chief coroner's office now. If there is some particular inquest or some particular case that anyone is interested in, that information is available.

That information can also be ascertained during the course of the estimates. However, there's no reason why much of the information that the honourable member feels should be in an annual report could not be in the section in our annual report as it is published at the present time.

**Mr. Lupusella:** The principle to which I'm addressing myself is the kind of recommendations which have been suggested by coroners' inquests. That's the nature of my request. It seems that 75 per cent of the coroners' inquests are implemented by this government. I would like to have those recommendations.

I'm not particularly concerned about the nature of the investigation. You stated previously, and Dr. Cotnam also emphasized, this principle that particular investigations or inquests include confidential material. I don't think I would be interested in the nature of the investigation. I would like to have, in general terms, the kind of recommendations which are coming from coroners' inquests. That's why I introduced another amendment to include this particular principle.

I realize any member of the Legislature can make a particular request to the coroner's office and get the information. That's not the main point. I think if we have a full publication, an annual report on the nature of the recommendations and those recommendations, if they are going to be made public, at least the public can get some benefits from the \$4.65 million which is spent on that particular office. I hope when we deal with this on a clause by clause basis the Solicitor General will take this particular concern into consideration.

There is another question which I would like to raise under vote 1602, item 4. I notice there is a decreased cost of pathologists' services based on 1977-78 spending plans. Could

you please elaborate on the principle of this decreased cost and what are the implications on pathologists performing this kind of service?

**Dr. Cotnam:** It depends on the number of autopsies.

**Hon. Mr. Kerr:** You say there's a decrease in pathologists' services of about \$100,000. I would think that our actual estimate for the 1977-78 year was something less than \$1.3 million. Is that the answer? What was the actual figure? At least up until the end of February, you had those figures. Have you got that?

**Mr. Edwards:** We don't have the figures to the end of March, but to the end of February it was about \$1.1 million. It's based on the statistics we had at that point. We felt we were slightly over budget last year, so it was reduced this year.

**Mr. Lupusella:** Okay. I have one other question which I would like to raise with the Solicitor General, in relation to the bill which he introduced in the Legislature. May I have some justification why jurors should be appointed by a regular constable? Is there any particular explanation? At the moment the regular practice which is used for the selection of jurors is to appoint a sheriff, isn't it?

**Dr. Cotnam:** The coroner issues a warrant for an inquest, and this goes to a coroner's constable. The coroner's constable in turn goes to the local sheriff and he says: "I need 35 or 40 names," or whatever, and they are taken out of the same jury rolls as any other jury.

**Mr. Lupusella:** But with the new bill which has been introduced by the government it now seems the full responsibility falls on the constable only without getting in touch with any particular sheriff, isn't it? Can I have any explanation? I think that is section 13. I don't have the bill with me.

**Hon. Mr. Kerr:** Section 13 deals with counsel. This is section 15. The present section, which is 27 of the act, provides that "the coroner direct a constable to name and appoint so many persons then present or who can be found as will make up a jury of five." All we're doing here in section 15 of the bill is to update and clarify the procedures to be followed in selecting and summoning a jury. The principle of the actual procedure has not really changed.

[12:45]

The question I would ask is, why not a constable? Somebody has to pick the jurors. To me, having a coroner actually going through the process of picking the jurors

seems ludicrous. You're picking people from a panel, the same as you are in court, and from a group of people you pick five people to serve on the jury. Some people are exempt for various reasons; some people don't qualify. I think the coroner, in getting these names, attempts to be as representative as possible, to get people from all walks of life who can make up a jury; but like our grand juries or petit juries, the background or occupation or character of the people are not main reasons for picking the juror. The process seems to make sense, that a constable whose job it is to do this, as well as to perform other services at an inquest, picks the jury. I really don't know what's the matter with it.

**Mr. Stong:** I think where the confusion arises is that misuse of the word "constable" conjures in one's mind the local police officer doing this.

**Hon. Mr. Kerr:** He's a constable.

**Mr. Stong:** That's right, and he goes to the sheriff.

**Hon. Mr. Kerr:** He's not a police officer and he does not answer to the police force.

**Mr. Lupusella:** I see; okay. I don't have any objection to that. Can I have also an answer in relation to salary increases in the 1977-78 budget? It seems that there was an increase in salaries and benefits from 13.2 per cent to 17.7 per cent for regular staff; and from two per cent to 3.3 per cent for unclassified staff. What was the criterion which was followed in relation to those particular increases? What is the problem in relation to the unclassified staff? It's beyond my comprehension to see an increase of two per cent to 3.3 per cent. I guess they are performing the same duties as those people who are classified as regular staff. What is the criterion the minister is following in relation to those increases?

**Hon. Mr. Kerr:** In the regular salaries there's an increase of \$82,200. That is due to salary awards and also, as the note says, conversion of unclassified to classified staff. It seems to me this question of benefits was raised before. Employee benefits showed quite a substantial change. It's 54 per cent, an increase of \$44,800. Would you like to comment on that?

**Mr. Edwards:** Yes, as I mentioned the other day, the large increase in employee benefits for regular staff, from 13.2 per cent to 17.7 per cent, represents the cost of the unfunded liability of the public service superannuation fund. The increase from two per cent to 3.3 per cent for unclassified or con-

tract staff is a figure that is given to us at the time of our budget preparation. This is calculated by the benefits people in Government Services. This is the employer's portion of benefits that are paid to these contract people.

**Mr. Lupusella:** What kinds of jobs are performed by those unclassified staff?

**Mr. Edwards:** The contract people?

**Mr. Lupusella:** Yes.

**Mr. Edwards:** Dr. Cotnam, would you be able to comment on what the unclassified people are actually doing? Perhaps I can help you out there. There are four people working 24 hours a week. I believe these chaps are morgue assistants.

**Dr. Cotnam:** There are some in the morgue dispatch area. Then there's a girl in the courts who works 24 hours a week or something like that. We have one other girl in our office now, who is doing the Human Tissue Gift Act. She is on unclassified staff or on contract. She's promoting the Human Tissue Gift Act full time now.

I think all the rest of our employees right now are regular complement.

**Mr. Lupusella:** Do you have people working on a part-time basis as well?

**Dr. Cotnam:** We have students who come in during the summer, and in our dispatch area we occasionally have people working on a part-time basis, they may be students or something like that, while other people are on holidays or whatever.

**Mr. Lupusella:** But students are not in this particular category, are they?

**Dr. Cotnam:** No. I don't think so. The students aren't included here.

**Mr. Lupusella:** Well I hope that next year you take a look at this particular percentage. I don't know the job classification of those people. I don't think the increase sounds proper, from two per cent to 3.3 per cent?

**Mr. Edwards:** The percentage increase for the unclassified staff is based on the employee benefits package negotiated for the regular staff; they get a spinoff from that. So I don't think we have a heck of a lot of control over that percentage. The contract is settled between the government and the bargaining group and unclassified staff get the benefit of that.

**Mr. Chairman:** Any further questions or speakers on item 4?

Item 4 agreed to.

On item 5, forensic pathology:

**Mr. Bradley:** I hope my question fits under

this category, and I think it will. It deals with new methods of detecting and identifying individuals who might have committed crimes.

There was in the news a short time ago—in southern Ontario, if I'm not wrong in Kitchener—the case of an individual who had been convicted of murder based on evidence that his hair was found in the apartment of the girl who had been murdered. Later on, two years later I suppose, it was proven through a new method, I believe involving nuclear science, that it was not indeed his hair in the apartment. He had been wrongly convicted, and he was subsequently released from prison.

Is this nuclear method of identifying hair being used on a widespread basis now? Or is this an isolated incident which arose at the request of a defence lawyer?

**Mr. Chairman:** For the benefit of members of the committee we have at the microphone Dr. Hillsdon Smith, perhaps he'd like to answer that question.

**Dr. Hillsdon Smith:** Yes. I think that would come under another part of the vote, in fact; under the Centre of Forensic Sciences, their biology and physics sections would deal with that.

**Hon. Mr. Kerr:** We've already covered that, doctor, so if you can improvise, I'm sure you're an expert in that area.

**Dr. Hillsdon Smith:** I think it's true to say that one can never say that two hairs come from the same source. Neutron activation analysis had great promise a few years ago, but that promise has withered away. So we're still in the situation where we can't say two hairs come from the same source; but I think you can say that probably two hairs came from different sources; it's the old negative.

**Mr. Bradley:** So it's a negative comparison.

**Mr. Stong:** On that point, if I may; how often are you called to give evidence in court, doctor? I notice you've got number of hours in court, 54 hours. Do you find it necessary to send personnel or are you able to satisfy counsel for both sides with a written report of your findings?

**Dr. Hillsdon Smith:** No, except recently in preliminary hearings, I appear in all the court appearances to give my own evidence.

**Mr. Stong:** It is not sufficient to prepare an affidavit or a report of your findings?

**Dr. Hillsdon Smith:** No, it is not, unless there is obviously a plea of guilty prior to the trial. If it is a contested trial, I have to be there.



**Mr. Stong:** Well, 54 hours in court does not seem to be that great.

**Dr. Hillsdon Smith:** Those are the actual hours in the court. That does not include two days travelling there and back.

**Mr. Stong:** So 54 hours of court time is in the courtroom?

**Dr. Hillsdon Smith:** Yes.

**Mr. Stong:** Is that the amount of time you personally put in, or does that include your staff?

**Dr. Hillsdon Smith:** No, that is the number of hours I have put in, the hours that I have been on the stand.

**Mr. Stong:** It seems to me that you are dealing in a very important area of crime detection and evidence. It seems to me that 54 hours is not really all that much time in terms of the number of cases we have. Is it that your expertise is not called upon that often?

**Dr. Hillsdon Smith:** I can travel from here to Sudbury, here to Ottawa, here to Windsor, and appear on the stand for 20 minutes including cross-examination. On other occasions I have been, last week for example, on the stand for three to four hours. It is very difficult to average it. That is the total hours spent in court but not the travelling time. That represents probably 100 cases of homicide.

**Mr. Chairman:** Further questions.

**Hon. Mr. Kerr:** For example, Mr. Stong, he will be putting in four hours this morning.

**Dr. Hillsdon Smith:** With no travelling time.

**Mr. Lawlor:** You are equally available to defence counsel and to the bar as to the prosecution?

**Dr. Hillsdon Smith:** Certainly, yes.

**Mr. Stong:** If the defence counsel approaches you for assistance, are you required to give a copy of your report to the crown attorney before you can supply it to the defence counsel?

**Dr. Hillsdon Smith:** A copy normally goes to the crown attorney first because the distribution list is to the local coroner, the chief coroner, the crown attorney and the investigating officer. It is usually subsequent to that that the request from the defence will come in, so I clear that with the crown attorney.

**Mr. Stong:** In other words, you have to get the crown attorney's permission before you can act for defence counsel?

**Dr. Hillsdon Smith:** I don't think I have to, but it seems to work better that way.

**Mr. Stong:** Has there been a directive? Why do you feel that is important?

**Dr. Hillsdon Smith:** I don't think it is important, but talking to crown attorneys they like to know what is going on before a case.

**Mr. Stong:** Do you equally supply your findings to the defence counsel without his request? For instance, a crown attorney will have you come in and do work in preparing himself for trial. Do you supply that material as readily, or your findings, to defence counsel?

**Dr. Hillsdon Smith:** Certainly, yes.

**Mr. Stong:** Automatically?

**Dr. Hillsdon Smith:** Not automatically. What normally happens is I am very rarely contacted by the defence on cases in which I am involved; but I am often contacted by defendants in cases in which I am not directly involved, in other words I didn't do the autopsy.

Now in the vast majority of those cases they will tell me what the prosecution's case is, from the medical point of view. If I agree with it, then that is the end of the conversation. If I don't, I will ask to see all the relevant documents. If I still disagree with any interpretational findings by the authorities appearing for the crown, then, yes, I will take it further, as I did last week in Hamilton.

**Mr. Stong:** Do you do any autopsies with respect to ascertaining drug use or the quantum of drugs in a person's body?

**Dr. Hillsdon Smith:** Yes. I take the samples at the autopsy and send them to the toxicology section at the Centre of Forensic Sciences.

**Mr. Lawlor:** Do you consider yourself neutral between the two sides?

**Dr. Hillsdon Smith:** Yes, for the court.

[1:00]

**Mr. MacBeth:** Dr. Hillsdon Smith has, to my mind, one of the most fascinating operations in the whole Ministry of the Solicitor General. I wish some of the members could attend some of his twice yearly seminars which he organizes for the various people involved with police investigation—coroners and others—to hear of the work that goes on and the discussions that take place at those times.

It always seems too bad we limit our questioning of Dr. Hillsdon Smith to five or 10 minutes simply because we don't have the right questions to ask him on these occasions. When I was minister I found that a most

fascinating field in which to spend some time.

**Hon. Mr. Kerr:** I believe another point that could be made with respect to Mr. Stong's question is that in many cases where there's a murder trial it involves a local pathologist. Dr. Hillsdon Smith may be subpoenaed or called in as a defence witness, but up to that point he may not have been involved in that particular case. Isn't that correct?

**Dr. Hillsdon Smith:** That's correct, yes. I get involved another way sometimes, and that is if we have an autopsy on a homicide victim performed by a relatively inexperienced local pathologist, I may be called in to give expert opinion, evidence to support the crown's case. But we try not to play the numbers game.

**Mr. Chairman:** Further questions?

Item 5 agreed to.

Vote 1602 agreed to.

**Mr. Chairman:** For the benefit of the members, we have roughly seven hours left in the estimates. On Friday we will be sitting, as agreed, doing these estimates. On Friday I'd ask that the members agree now that we stand down vote 1603 because I understand we have staff problems, but the minister's quite happy to deal with 1604. I take it that's agreed.

We started late again today because the members were not here on time. We would like to finish these estimates, and we can start promptly on Friday after question period, if everyone can be here as quickly as possible, at least two of you.

The committee adjourned at 1:04 p.m.

## CONTENTS

---

Wednesday, May 24, 1978

Public safety program .....	J-83
Fire safety services .....	J-83
Coroners' investigations and inquests .....	J-95
Forensic pathology .....	J-105
Adjournment .....	J-107

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Davison, M. N. (Hamilton Centre NDP)  
 Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
 Lawlor, P. D. (Lakeshore NDP)  
 Lupusella, A. (Dovercourt NDP)  
 MacBeth, J. P. (Humber PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Stong, A. (York Centre L)  
 Ziemba, E. (High Park-Swansea NDP)

From the Ministry of the Solicitor General  
 Bateman, J. R., Fire Marshal  
 Bennett, Dr. R. C., Deputy Chief Coroner  
 Cotnam, Dr. H. B., Chief Coroner of Ontario  
 Edwards, L. H., Director, Financial Services Branch  
 Gow, P. F. L., Executive Director, Administration  
 Hillsdon Smith, Dr. J., Director, Forensic Pathology  
 Wilson, F. L., Assistant Deputy Minister





No. J-5

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General

**Second Session, 31st Parliament**

Friday, May 26, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff, Phone 965-2159.

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# LEGISLATURE OF ONTARIO

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FRIDAY, MAY 26, 1978

The committee met at 11:22 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

**Mr. Chairman:** I recognize a quorum. Order, please. We have approximately seven hours left in these estimates. It's been the policy of the justice committee to give complete access to the press and to cameras and I trust that no member of the committee is going to want to change that policy at this point in time. As long as they don't get in the way of the committee members—and they never have in this committee—we see no reason to stop either the recording or the taping or the taking of pictures during this committee session.

The members will recall that on the request of the minister we stood down vote 1603, and today we will be dealing with vote 1604, which is the Ontario Provincial Police, management and support services program, and also the operations program, vote 1605.

We have at the microphone Assistant Commissioner Lidstone and Commissioner Graham. Mr. Minister, do you have any opening statement you wish to make on the first item?

**Hon. Mr. Kerr:** No, I think we should just do what we've been doing. As we get into the estimates we can deal with the items as they come along, although this morning I would assume that we would want to have some general discussion on the Fleck situation as was raised yesterday in the Legislature.

As I indicated to the member for Wentworth (Mr. Deans), I would have the officers who have been involved in the situation at the park here this morning prepared to answer questions from the committee members. It may be that the members of the committee would want to get into that right away. I would think that particular discussion or subject can involve the items that are in vote 1604, the management and support services program. If we want to be a little more flexible than we have been by not sticking to an individual item during this discussion, I see no objection to that.

On vote 1604, Ontario Provincial Police management and support services program:

**Mr. Stong:** Could the minister make a statement at the outset here with respect to Fleck Manufacturing and the role played by the Ontario Provincial Police in that particular strike?

**Hon. Mr. Kerr:** Mr. Chairman, as I mentioned yesterday, and as I have on other occasions, the role of the OPP there is to maintain peace at the plant in respect to the picket line. The police are obligated by law to do that and to make sure that those workers who want to enter the plant to work can do so unobstructed and without intimidation. I must say that over the two and a half months that this strike has been in existence, there has been more peace, shall we say, and order on the picket line than there has been trouble and I think that this reflects on the operation of the police in carrying out their duties there.

There is a labour dispute and, as I mentioned yesterday, the police don't relish the role of being sort of in the middle. They are sick and tired of being at the park and being criticized for their role in respect to the problem there. The sooner that the strike is settled the sooner the OPP generally will be very happy to get back to their normal duties. The questions yesterday concerned the allegations that undue force was used in respect to the picket line, to the number of people who had enforced the picket line from outside the area, the fact that workers were denied access to the plant and as a result there was trouble on the line at that plant which we've all heard about since that time.

Staff Sergeant Garry, who has been in charge of the detail there, and also Assistant Commissioner Lidstone are both here this morning and are prepared to answer any questions from any committee member.

**Mr. Stong:** Mr. Chairman, could the minister give us the benefit of his study with respect to the allegations of undue force?

**Hon. Mr. Kerr:** The information I have from the Ontario Provincial Police is that there was a confrontation at the picket line, that there was a situation where one picketer fell and two other workers apparently fell on top of him and as a result he was injured. There was also an accident. Apparently one of the women picketers was accidentally



struck by the billy of a police officer at the scene. I'm not sure, nor are the police, how serious that injury was. That did occur, but it wasn't an intentional blow by any means, or an attempt to inflict any injury on that particular worker.

I am not aware of any other incidents where injury is involved, as far as my information from the police is concerned. This is something, of course, that can be brought this morning. There have certainly been other allegations made and they can be dealt with this morning by the people who are in charge and who have been at the scene.

**Mr. Chairman:** For the reference of the members who have just come in, at the microphone we have Assistant Commissioner Lidstone and Commissioner Graham. Carry on, Mr. Stong.

**Mr. Stong:** Thank you, Mr. Chairman. I don't mind if this is a very freewheeling discussion. I don't intend to monopolize it by any stretch of the imagination, but perhaps I could ask one further question and then it could be opened up to other members. That is, is the minister aware of whether any of the picketers have attended before a justice of the peace and laid charges in this incident?

[11:30]

**Hon. Mr. Kerr:** The information I have is that one or two of the women have laid charges. This is something I am not absolutely certain of. Apparently one of the women who was interviewed by the media indicated that the union lawyer would be laying some charges, but I don't think that has been done as yet.

**Mr. Cassidy:** I just want to say a word or two about this whole affair, Mr. Chairman, and then leave the questioning to other people.

I guess I am concerned—and the minister can answer to this—that the warnings about potential problems at the Fleck picket line are not something that began the other day. This is something that began at the outset of the labour dispute. There was concern before the dispute because of the way in which OPP constables went into the plant.

At a time when the union representatives were absent, and it was known that they would be absent, management called the workers into the lunchroom, and two OPP constables proceeded to give gratuitous advice to the workers supposedly about their rights and responsibilities in the case of a strike actually taking place. In effect, it was a means of intimidation, and it was a very

unfortunate incident, where the OPP was being used on behalf of management. That pattern is something that distresses us and has continued right up until as recently as yesterday.

Yesterday, Mr. Cliff Pilkey, the president of the Ontario Federation of Labour, was on the picket line until 10:15 a.m. At 10:20 a.m.—and it is worth remembering that the picket line is located some distance from, and not within sight of, the plant—the bus left the Fleck plant and went to pick up the strikebreakers or the scabs. A coincidence? Or was there some direct communication from the OPP to management, saying, "Okay, boys, you can send your bus out right now"?

The government controls that whole site, because it belongs to the Ministry of Industry and Tourism. The OPP is using the recreation hall there. The strikers, when they need to use a toilet or something like that, or when they asked for use of that recreation hall, have been denied it.

I was distressed yesterday, Mr. Chairman, given the number of warnings there have been in the Legislature and from outside, and given the repeated assurances that the minister made on many occasions that the police were merely there to maintain the peace, that 32 hours after the incidents of Wednesday the minister was not capable of giving any coherent explanation of what the devil had happened at the Fleck picket line on Wednesday morning of this particular week. That suggests the accountability of the OPP to the minister, and through the minister to the Legislature, is simply not a reality.

It is little wonder that we are distressed when you have a situation where the police are working on their own, where even in the most grave of situations and a situation which was of obvious provincial importance, and the minister and his staff do not make a point of having themselves informed as to what the devil is actually going on.

We would also like to inquire—I think some of my colleagues want to pursue these points—as to what degree of knowledge the minister has had and how he has kept himself informed. We would also like to ask the same question of the commissioner of the OPP; whether, in view of the importance of this particular dispute and the OPP's role in it, he has kept himself informed on a day-to-day basis of what is going on? What instructions have gone to the police? At what level are decisions made, such as the decision made on Wednesday of this week that police would, for only the second time in the dispute, wear

riot gear? Which in itself is highly provocative and intimidating and can easily help to lead to ugly situations and to situations where police are emboldened by having the riot gear and may therefore take actions that they might otherwise not have taken.

We are concerned about all of these things, Mr. Chairman. I would say as well that we are very concerned again to see the OPP, a provincial police force, and a force with great respect in general across the province, being used and public funds being used to such an extent to favour one side in a particular labour dispute.

The minister has said the costs of policing in this particular dispute, up until last week, were somewhere in the order of \$400,000. Other estimates that have been published have been in excess of \$500,000 in lodging expenses, overtime charges and that kind of thing.

Perhaps we can get some clarification in this committee about whether, as the minister says, regular time was included with that as well. It is my understanding, if you brought in the regular time of the constables who have been involved in this particular dispute, when they have been pulled off the investigation of crime or the other work that the OPP constables do, that the costs would be very much greater.

If I can take Wednesday as one particular example, the cost of maintaining an OPP constable is getting on for \$100 per day. The commissioner can give us an exact figure but, with salaries in the range between \$16,000 and \$20,000, with fringe benefits, with the fact that they are not working every working day of the year, with holidays and that kind of thing, and with the equipment cost of having an OPP constable on duty, you are talking about a minimum of \$100 per day for an OPP constable. So that \$10,000 to the taxpayers is the minimum cost of having 100 constables in riot gear at the Fleck Manufacturing site in Centralia on Wednesday.

If it is intended by the government that the OPP should become a kind of management police force, a kind of high-grade security force for companies in the worsening and deteriorating labour relations situation of the province, is it fair that the workers of this province, through their taxes, should be paying for those particular services? Or should management not be paying for those services, and should the government not be submitting a bill for \$400,000 or \$500,000 or whatever the costs have been to Fleck Manufacturing?

If the government had submitted that kind of a bill for the security services that Fleck is getting from the OPP, is there not a very

good chance that Fleck by now would have been much more reasonable in its negotiations and would have stopped denying a central and basic labour right to the workers at Fleck Manufacturing, who were grossly, badly paid and whose request is a very simple one—a request for union security to make sure that a year from now, if they sign a contract today, they will still have the union they fought for some time to try to establish?

**Hon. Mr. Kerr:** Mr. Cassidy mentioned first the question of OPP officers going into the plant and, as he said, giving gratuitous advice. I don't want to get into that in too much detail because, as you know, that is the subject of a hearing before the Ontario Labour Relations Board at the present time.

In my own remarks, all I would say is that, as the honourable member may recall, there were a number of requests for information from workers. They were just confused; they were not aware of what their rights or obligations would be in the event of a strike. Naturally, there were a lot of rumours flowing around the plant as to what rights they did have. One of the workers attended at the police and asked for information; I believe it was a Ms. Richard. As a result of this, and as a result of these questions, the OPP attended at the plant.

The information I have is that there was no intention of intimidating the workers. It was an information session. It was a question of referring to a manual dealing with strike situations, dealing with the Criminal Code or any legislation that might apply, and answering questions during the course of that session, shall we say. There was no intention to intimidate the workers whatsoever.

I think the honourable member should realize—I'm sure he knows—that this is a rural situation from the point of view that many of the police at that particular detachment know many of the people who work in the plant. Maybe the session was a little more informal, from that point of view, than it would normally be, but I think they did have an interest in making sure that the rights and obligations, if you want to use that word, were known to a group of women who had never been involved in this type of situation before.

I really don't know anything about the bus the honourable member refers to. I suppose there are different shifts down at that plant during the day.

**Mr. Cassidy:** There is one shift that begins about 6:30 in the morning, but which was postponed on that particular day until just after Cliff Pilkey, the president of the On-

tario Federation of Labour, left. There is no shift which begins at 10:30 in the morning.

**Hon. Mr. Kerr:** I would be surprised if, as you imply, the OPP had sort of said: "Everything is all right now. You can go get your workers." I would be very surprised if that took place. I would think the plant management could assess that for themselves. We have asked that when there are people joining the picket line in any great numbers from outside the area, whether it's from Windsor, or London, or Tillsonburg, or what have you, that the plant be closed. That would avoid confrontation and avoid any problems, as apparently took place Wednesday. We have asked that, so the police are usually satisfied that the plant is closed.

As for Mr. Pilkey's presence there yesterday, I know him to be a very reasonable man. His observations and statements, I feel, have always been reasonable. I don't know whether that was the type of situation where maybe the plant should have closed. In any event, it did, and then the management decided to open it up. I wouldn't want to comment on that. It may be that the OPP officer in charge knows about that.

**Mr. Chairman:** Would Assistant Commissioner Lidstone care to comment on Mr. Cassidy's question?

**Mr. Lidstone:** On a particular point, Mr. Chairman?

**Mrs. Campbell:** On the question of the bus.

**Mr. Chairman:** On the particular point of whether or not, as I understand Mr. Cassidy's question, there was any communication between your people and management so that they would know when Mr. Pilkey had, in fact, left and schedule their bus accordingly. I believe that was the gist of Mr. Cassidy's question on that item.

**Mr. Lidstone:** Mr. Chairman, unfortunately, I was not there and I am having to rely on the information from Staff Superintendent Garry. I was at the scene. I arrived at Huron Park, or in that area, first on the evening of March 13 and I was there fairly continuously, not every day, until April 12. From that time, we saw a de-escalation of the incidents and I reduced the manpower assigned from Toronto and continued to reduce it until we had one or two people there. I had not returned to the site at the time of the incident on May 24.

[11:45]

There was another somewhat similar incident that had a different ending on May 18 following a decision of the plant management. That one I have some knowledge of. It was

taken against our objections. We objected to the move they were making. They said they were doing it. They complained. Though I'd never met the president, he phoned me and he complained bitterly about the lack of police protection on that occasion. They had made a decision that they were going to open the plant regardless of the people who were there.

**Mr. Chairman:** Staff Superintendent Garry is at the mike. Would you care to comment?

**Mr. Garry:** With respect to the question regarding the bus, my answer to that would be that I issued no instructions to the management that the picket line had dispersed and they could certainly be capable of opening the plant and operating. To my knowledge, no instruction was issued by anyone under my supervision in that regard.

**Mr. Renwick:** Was there any communication of any kind between the police on the spot and the management at that time? I'm not asking about instructions. Was there any communication between the police and the management of the plant at approximately that point?

**Mr. Garry:** I received advice at approximately 10:20 that the management had decided to commence operations and the bus would be leaving the plant shortly.

**Mr. Renwick:** How did you receive that information?

**Mr. Garry:** I received it by radio from our Exeter detachment dispatcher.

**Mr. Renwick:** To whom was that information relayed by management?

**Mr. Garry:** I didn't quite get the full question, sir.

**Mr. Renwick:** How did the dispatcher know to send you that message? Who did he communicate with, or who were the Exeter detachment in communication with?

**Mr. Garry:** I don't have that information, sir.

**Mr. Renwick:** There must have been some, obviously.

**Mr. Garry:** There must have been some communication, but I don't have that information now. I was at the site at the strike in command of the group, and I received my information by a radio message.

**Mr. Renwick:** Can you get that information for us?

**Mr. Garry:** I believe this would be available, yes.

**Mr. Cassidy:** Obviously, from what Commissioner Lidstone was saying, there are regular communications with the management. If,



in fact, the OPP is able on occasions to object to certain actions by management, perhaps you could say what those communications are. Is it purely by radio to Exeter and then by mysterious telephone calls, or in what manner are those communications carried out?

**Mr. Lidstone:** The first communication that I had with anyone there was on the evening of March 13. It was my understanding on that particular evening that the following day there was to be a large demonstration and that the management intended to open the plant. I phoned Mr. Turner. I had seen him the Friday before when I had gone down to see what the situation was, but I had not had any discussion as to his policy. I spoke to Mr. Turner on the phone and asked him to meet me at the Lucan detachment.

I drove from Toronto and did meet him at the Lucan detachment at approximately 10:30 in the evening. He was accompanied by another person. I informed him it was my understanding that he intended to open the plant the following day and that I was advising him that we were not prepared to guarantee the safety of people who might be attempting to go through the picket line. At this point he agreed that he would not attempt to open the plant. In fact, the plant was not opened.

**Mr. Mackenzie:** Along this particular line, I wonder if I could go back to Staff Superintendent Garry. Obviously, there was some communication from the Fleck plant to the Exeter detachment, which I gather was then relayed to you by radio at 10:15.

**Mr. Garry:** That was my statement, that's correct.

**Mr. Mackenzie:** Was this the only occasion, or on how many occasions is there this kind of information, and is it always relayed through the Exeter detachment to the officer in charge at the actual site?

**Mr. Garry:** When I do receive information of this type periodically, it's relayed by radio from the Exeter detachment.

**Mr. Mackenzie:** So periodically there is information coming from the plant to the Exeter detachment and being radioed to the officers in charge on the line?

**Mr. Garry:** That's correct.

**Mr. Deans:** I wonder if we can go back just a little bit because you indicated a moment ago that the first communication you had with the management of the plant was on March 13. I would like to find out about the decision made by the Exeter detachment to go into the plant prior to the strike to meet with the employees and advise

them of what would be appropriate and what would not be appropriate with regard to the pending strike. The first thing I would like to know from you is: Is it a practice followed by the Ontario Provincial Police to do that?

**Mr. Lidstone:** No. This is the first occasion that we can identify that such an occurrence took place.

**Mr. Deans:** Can you give me some indication then as to why the decision was made to go into that plant prior to the strike and to advise those workers what their rights and obligations were?

**Mr. Lidstone:** It was a local decision that was made by the Exeter detachment commander.

**Mr. Chairman:** there is one area that gives me some concern and maybe I should ask your direction on it. This matter is the subject of a hearing before the Ontario Labour Relations Board. The hearing has sat for at least four days and there is a motion to prosecute under the Labour Relations Act. The people making the motion and the union, the United Auto Workers, have had some other witnesses testify. Their witnesses have been testifying under oath, the subject—

**Mr. Deans:** Mr. Chairman, on a point of order. I'm quite content to accept that this matter should perhaps not be pursued. I am satisfied with the answer that I got. I'll pursue it no further and save you the trouble of going through the explanation. I understand your anxiety with regard to it.

If I can leave that and pursue the incidents after that. I'm sure you keep a record—both at the detachment and I suspect you would probably keep a personal record—of all of the incidents and the reasons for the decisions made with regard to this strike since it has a very high profile at the moment.

**Mr. Lidstone:** Yes, pretty well.

**Mr. Deans:** You do. So there is a log of why the police determined they should take certain actions on certain days?

**Mr. Lidstone:** That's correct, sir.

**Mr. Deans:** Okay. Can you then provide us with some of the information that led you to believe that on Wednesday last it was appropriate to dress your officers in their riot garb and station them at the scene in preparation for what you must obviously have thought was going to be a confrontation?

**Mr. Lidstone:** Did you wish me to speculate on Staff Superintendent Garry's reasons?

**Mr. Deans:** No, I think—

**Mr. Lidstone:** He was the one who was there.

**Mr. Deans:** Well I'm quite content to have whoever made the decision tell me why you made it.

**Mr. Lidstone:** I did make the decision on a previous occasion, March 30, that we would use that equipment, which was the only other time.

**Mr. Deans:** We'll go back to that in a moment. Let's talk about Wednesday first. Why did you decide on Wednesday it would be an appropriate thing to do?

**Mr. Garry:** In answer to your question, on the arrival of the picketers which was between 5:15 and 5:30 on Wednesday morning, I identified myself to the vice-president of Local 200, Mr. George Labute from Windsor. We went down together, they hadn't been down there before. I showed them where the plant was and they commenced picketing the plant.

When I received my information that the management intended to operate the plant that day, I spoke to Mr. Labute and indicated to him that I had information that the employees were coming to the plant and I asked him for his co-operation in opening the picket line to permit the employees access to the plant. He acknowledged my request and on the arrival of the employee bus and several cars, the picket line did not disperse and the vehicles came to a stop.

We had a megaphone at the scene and made three successive requests for the picket line to open up and allow the employees to enter the plant, without receiving any response.

At that time the mood of the picket line, in my considered opinion, was determined. There was some evidence of some people using intoxicants, and it appeared to me that—

**Mr. Deans:** Let me stop you for a moment. If there was some evidence of people using intoxicants, why would you not simply have moved in on the people who were apparently using the intoxicants?

**Mr. Garry:** I should state there wasn't public drunkenness to the extent you would ordinarily make an arrest. I state the use of intoxicants, the smell of liquor on a person's breath, which doesn't warrant any police action.

**Mr. Mancini:** Did that prevail on the whole picket line? How prevalent was it?

**Mr. Garry:** No, it wasn't. In my opinion it was prevalent by the—

**Mr. Mancini:** Was it being consumed there?

**Mr. Garry:** No, it was not.

**Mr. Lewis:** What time of day was this?

**Mr. Garry:** This was approximately seven o'clock in the morning.

**Mr. Lewis:** You wouldn't think it would be prevalent at seven in the morning, would you?

**Mr. Garry:** You wouldn't expect that, but some of these pickets are people who have worked a midnight shift or an evening shift for the plant. They come off duty at approximately midnight or 12:30, board a bus at 1:30 in the morning, travel a considerable distance, and the opportunity presents itself for some of them, not all of them, but some of them, to use some intoxicants.

**Mr. Deans:** Could I stop this for a moment? You indicate you spoke to the vice-president of the local, who apparently understood what you were saying and who indicated at least a degree of willingness to co-operate with you. He didn't indicate that he was willing to co-operate with you—is that fair?

**Mr. Garry:** No, he did not.

**Mr. Deans:** You then went from that point to the point where you were at the picket line—not you personally, but we are now talking about the picket line and the three warnings that were given over the bullhorn.

You haven't dealt with why you felt it necessary to have those 100 police, or whatever the number was—I don't want to get hung up on that—dressed in riot outfits. You must have made that decision prior to the decision to announce over the bullhorn that they should disperse.

Somewhere between the time you spoke to the vice-president and the time of the incidents we are going to talk about in a moment you decided that it was necessary that they be dressed in riot garb. When did that decision take place?

**Mr. Garry:** That decision took place approximately 24 hours previously based on intelligence reports.

**Mr. Deans:** That is what I asked you to begin with. That was my first question. That is what I am interested in finding out.

Why did you decide 24 hours in advance of a picket line that it was necessary to have police dressed in riot combat gear, where there was no evidence there was going to be violence and where the vice-president of the local, in conversation with you, indicated his willingness to co-operate, or at least didn't indicate he was unwilling to co-operate?

**Mr. Garry:** I would like to point out that the people who were actually dressed in riot

gear, or crowd control equipment, as you wish to refer to it, were the people who were deployed to open the picket line.

Mr. Deans: How many?

Mr. Garry: How many? We had approximately 30 male members and 12 female constables in that group.

Mr. Deans: Could you tell me about the information you had 24 hours ahead of time that led you to believe it was necessary to have those officers there dressed in their combat gear on that particular morning?

Mr. Garry: My information was that there were more demonstrators planning to attend at Huron Park than actually arrived.

We can't always validate that information at the last moment and deploy our people at the last moment. So periodically, as you appreciate, you can end up with more people than are actually necessary at the strike scene.

[12:00]

Mr. Deans: You were then in charge and you realize your information was perhaps somewhat faulty because there were not nearly as many people there as you anticipated.

You spoke to the vice-president who indicated his willingness to attempt to co-operate with you and you still maintained a force of police dressed in combat—or crowd control, whatever phrase you want to choose—you still maintain that you had to have those people there.

Do you agree with me that the very fact that they are dressed in that way, which is intimidating, tends to create tension both in the police and in the crowd?

Mr. Garry: I don't believe it creates tension in the police. The police realize this equipment is for their protection. This is protective equipment as much as anything else.

Mr. Deans: Was there any indication on the person of any of the people that were there of any weapons of any kind?

Mr. Garry: No, there was not, but you are capable of concealing weapons. There were no weapons.

Mr. Deans: Had you any reason to believe that anyone was concealing weapons?

Mr. Garry: No, there was no evidence that there were concealed weapons.

Mr. Deans: Do you not believe in a matter of a civil dispute that it is much simpler to control it with ordinary uniformed police—and much more civil to control it with ordinary uniformed police—than to bring in what amounts to a riot squad?

Mr. Garry: There are two schools of thought—yours and mine. And they conflict. I might add at this point—if you would like me to finish answering the question—

Mr. Deans: I am sorry.

Mr. Garry: My theory is, if you place police officers in normal uniform and you have a belligerent, stubborn, or determined gathering, there is always the possibility that you get people grasping hold of each other and you get swinging of fists.

I suggest to you the same opportunity does not apply if an officer is carrying a baton, he has both hands on his baton. It just doesn't apply. He is not swinging his baton—

Mr. Deans: We are going to talk about that.

Mr. Garry: I suggest to you that didn't happen on that morning. He is holding his baton and his hands aren't free and you don't get the fists swinging the struggling and the wrestling aspect of the situation.

Mr. Deans: You wouldn't get any of it if they came in tanks. The fact of the matter is, when they arrive carrying batons, they therefore use the baton in order to hold the crowd back, is that fair? They use it as a means of pressing the crowd back?

Mr. Garry: That is correct.

Mr. Deans: That is correct. But since there was no evidence there was going to be any violence, the crowd was smaller than you had anticipated, there was no evidence of any weapons, and since no one had made any threatening gestures, why would you feel it necessary to take that precautionary measure rather than to attempt to reason with the crowd? Shouting to them over a bullhorn isn't reasoning with them.

Why would you not attempt with that number of officers, which was a substantial number, to reason with the crowd and to request them on a face-to-face basis to allow the vehicle to pass?

Mr. Garry: As I say, we attempted to persuade the picket line to disperse.

Mr. Deans: Over bullhorns.

Mr. Garry: We weren't shouting at them over the bullhorn. We were requesting in civil words and in civil tones.

Mr. Deans: I agree.

Mr. Garry: And as I said, we were trying to persuade them to open the picket line and allow the employees through it. Persuasion failed to produce positive results. Therefore I deployed—I was in charge, I accept full responsibility—the crowd control unit in an effort to open the line, allow the employee



bus and the other vehicle to pass through the line, and to prevent any injury to either employees or picketers.

**Mr. M. Davidson:** Can you tell us the exact words you used?

**Mr. Chairman:** Excuse me. I believe Mrs. Campbell has a further supplementary.

**Mr. Deans:** I wasn't quite finished.

**Mrs. Campbell:** Mr. Chairman, putting myself down some time ago for a question or a series of questions was not a supplementary. The supplementary, may I suggest, to the original question was to determine the deploying of the bus.

We have now gone on to the whole general position on Wednesday which I don't think was supplementary to Mr. Cassidy's opening remarks. I wanted to follow this line of questioning. I wanted to establish the person responsible on the job on Wednesday. I am of course interested in what has developed so far in the use of the riot gear, crowd control gear.

I would like to know at what stage was there what is alleged or do you deny, the allegations—certainly physical problems, on that picket line. Was it after you had asked them the third time? What then happened? What did your people do?

**Mr. Garry:** Our people had stopped approximately 15 to 20 feet away from the picket line.

**Mrs. Campbell:** These are what; what did you say? Forty-two people; 30 plus 12?

**Mr. Garry:** That's the crowd control unit, about 40. About 12 female constables.

**Mrs. Campbell:** Yes.

**Mr. Garry:** They'd stopped approximately 20 to 30 feet from the picket line and when we decided, or it appeared evident that the picket line—

**Mr. Lewis:** You had just said 15 to 20, did you not?

**Mr. Garry:** I don't recall saying 15 to 20.

**Mrs. Campbell:** 15 to 20 feet from the line, was it?

**Mr. Garry:** Are you referring to distance or numbers of people?

**Mr. Lewis:** No. From the picket line. I just want to get that clear.

**Mr. Garry:** Yes. I believe I said 20 to 30.

**Mr. Lewis:** Twenty to 30 people. Okay.

**Mr. Garry:** Pardon?

**Mrs. Campbell:** Could you now tell us what it was?

**Mr. Lewis:** I have such respect for the precision of police as they make these assess-

ments, that when the staff superintendent says 15 to 20 and then 30 seconds later says 20 to 30, I just wanted to get sorted out in my own mind. It does make a difference.

**Mr. Garry:** I have a photograph here, Mr. Lewis, if you would care to examine it.

**Mr. Lewis:** Oh, good. Okay.

**Mr. Garry:** To continue in my explanation: Our crowd control unit stopped and when it became evident that the picket line was not going to open, the unit advanced, at a walking pace, to the picket line and kept advancing until they forced their way through the picket line.

**Mrs. Campbell:** Were they lying astern or what was their formation?

**Mr. Garry:** I beg your pardon?

**Mrs. Campbell:** Were they lying astern or what was their formation?

**Mr. Garry:** They were, generally speaking, in a V-shaped formation.

**Mr. M. Davidson:** Also known as a flying wedge.

**Mr. Garry:** Well, they weren't flying, sir. If I may say so, I've told you they were walking. And the action existed for approximately a minute and a half to three minutes at the most.

**Mrs. Campbell:** Now what action are you talking to me about at this point?

**Mr. Garry:** The advancing of the crowd control unit through the picket line. The picket line opened and the vehicles moved through.

**Mrs. Campbell:** I see. So at that point in time there was no altercation, if I may put it at its least. There's no altercation at all between your officers and anyone on the picket line?

**Mr. Garry:** It's quite possible there was some pushing and shoving in the congested area in the picket line, but I saw no physical altercation between picketers and police.

**Mrs. Campbell:** How close were you to the scene at this point?

**Mr. Garry:** I was within, possibly, 20 feet of the picket line. It was fully visible to me, I was standing in the tarmac at the back of the plant. I had the picket line under observation. But you can appreciate with that many people in a group there could be things occurring that I wouldn't necessarily be able to see.

**Mrs. Campbell:** So, you say at this point, the picket line opened and the vehicle or vehicles went through?

**Mr. Garry:** That is correct.

**Mrs. Campbell:** Up to this point, we have possibly, by your testimony, some shoving, perhaps—you weren't too clear?

**Mr. Garry:** Well, I believe there possibly was some shoving in the picket line. There generally speaking is, when you have physical contact between police officers and picketers or demonstrators. It's natural to assume that there will be some shoving.

**Mr. Lupusella:** As a supplementary to that, would you please tell us why the officers were not wearing identification at the time when they met the people on the picket line?

**Mr. Garry:** Were not wearing—I didn't—

**Mrs. Campbell:** Identification.

**Mr. Garry:** Generally speaking, we don't carry name tags. Every officer carries an identification card and warrant card on his person. Some forces carry name tags; we don't.

**Mrs. Campbell:** You say you don't carry name tags. Do you wear any identification in a situation like this?

**Mr. Garry:** I wear rank identification; the NCOs wear rank identification.

**Mrs. Campbell:** But no numbers?

**Mr. Garry:** No, there are no numbers exposed. We carry warrant cards and identification cards.

**Mr. Lewis:** Mr. Chairman, on the assumption that we will be pursuing many aspects of it, could I ask one or two brief questions almost for clarification?

When did you know that the plant would operate that day?

**Mr. Garry:** When did I receive my information?

**Mr. Lewis:** Yes.

**Mr. Garry:** I believe it was at approximately 10:20—between 10:20 and 10:30 that morning.

**Mr. Lewis:** That the plant would operate that day?

**Mr. Garry:** That's when I received my information on that day.

**Mr. Cassidy:** I think we are referring now to Wednesday, May 24, not to yesterday.

**Mr. Garry:** I had no information with respect to whether or not the plant would operate that morning or not.

**Mr. Lewis:** And yet 24 hours before, despite the fact that on previous occasions when there had been largish demonstrations—as I understand it, according to what was said originally, when there were largish demonstrations, you had requested the company not to operate and the company had not operated. Is that generally fair?

**Mr. Lidstone:** Yes. During the time that I was at the scene, that was their standard response.

**Mr. Lewis:** Right.

**Mr. Lidstone:** We didn't ask them not to operate. We said that we couldn't guarantee the safety of people entering or leaving the plant.

**Mr. Lewis:** And as I understand it, listening to you they had followed that practice by and large?

**Mr. Lidstone:** Yes, that is correct. However, as I say, I have only spoken to the president of the firm once and that was on May 18; he spoke to me on the telephone and told me that his policy had changed and he was going to operate. We had not a very pleasant discussion on the telephone. I was in Toronto and he was very unhappy with my attitude.

**Mr. Lewis:** You didn't know whether the plant would be open on the Wednesday, staff superintendent? You weren't sure?

**Mr. Garry:** No, I had no definite information. But based on the information already stated by Assistant Commissioner Lidstone, I had to be prepared for the fact that the plant would operate under any circumstances.

**Mr. Lewis:** And you felt it necessary, therefore, to dress 42 people in crowd-control uniforms or crowd-control outfits?

**Mr. Garry:** As I previously stated, those people were dressed in crowd-control equipment approximately 15 or 20 minutes before the arrival of the employees. That's when you make your decision whether or not you are going to dress your people in crowd control equipment or not. It's made immediately—

**Mr. Lewis:** I am not understanding you. I am sorry; I assume it's my fault. You said the decision to have crowd-control uniforms was made 24 hours in advance.

**Mr. Garry:** No, it's not made 24 hours in advance—

**Mr. Deans:** Yes, you did say that.

**Mr. Cassidy:** Very clearly.

**Mr. Lewis:** I'm sorry. I thought you said just a little earlier when Mr. Deans asked you when you had made your decision to dress your people in what we call riot gear—it reflects our different perspectives—

**Mr. Garry:** I think we should clarify that point now. I understand Mr. Dean's question to be, "When did you intend to have the additional crowd-control people at the scene?" I said that was made 24 hours in advance. I am sorry if there is a misunderstanding.

**Mr. Deans:** It is not a misunderstanding, sir, because I asked that question three times.

I went over it three times with you, asking you very carefully why you had made the decisions. You told me it was because of information you received. You told me that you expected a larger crowd, you expected there might be some difficulties as a result of it, and you decided 24 hours in advance that you would require riot-equipped police on the scene. I am sure the record will show quite clearly on three separate occasions that you said that.

[12:15]

The night before, the information you had received from Windsor—I didn't ask you who from, but from Windsor—was that there was a much larger contingent expected, or a much larger group was coming, and that you had decided the day before that you would require your crowd-control police, equipped properly for crowd control, to be on the scene on that following morning. That is what you said.

There was no doubt in your mind when I asked the question that that is what I was asking.

**Mr. Garry:** Very well. We will get back to this point then.

The policy is that we are requesting officers to travel considerable distances when we call for reinforcements based on intelligent information. Therefore, they do carry their crowd-control equipment with them, because they can't be redispersed to obtain this equipment and we don't maintain a supply of equipment at the site.

When I made my decision that it was necessary to open the picket line, I decided, before deploying the 42 people in the group, that I would dress them in crowd-control equipment. I have on other occasions been prepared to deploy them without crowd-control equipment, depending on the mood and depending on the situation at the time.

**Mr. Deans:** Then, I want to go back with you, sir, if you will, because now we are into an entirely different situation. I misunderstood you, quite obviously.

After having spoken to the vice-president of the local, after having seen the size of the crowd, and after having had his assurance that he would not willingly go against your request to open the picket line and that it would be peaceful—there was no clear evidence anywhere of any intent to be violent on the part of the picketers—you still decided that you required riot-equipped police on the scene. Why?

**Mr. Garry:** Based on the mood of the picketers, which I said was determined and somewhat unco-operative.

**Mr. Deans:** Where was the unco-operative-ness, when the vice-president of the local had met with you and said yes, he would do what he could? Where was the unco-operative mood?

**Mr. Garry:** Just generally speaking. As I said, there was evidence that there were some intoxicants among the picketers. They had a determined attitude about them. They were making comments—

**Mr. Deans:** Describe this determined attitude to me.

**Mr. Garry:** We have some photographs of them standing with their arms folded—

**Mr. Deans:** Oh, for heaven's sake!

**Mr. Garry:**—and such comments as, "They won't go through"—

**Mr. M. N. Davison:** Were they singing "We Shall Overcome"?

**Mr. Garry:** Comments such as "They won't go through"—you periodically hear this on picket lines—"Stop the bus," "They won't work today," "The plant won't open," and such things as that.

**Mr. Lewis:** Staff superintendent, I am really a little disturbed by the shifting nature of what you have been saying to the committee. Did you not at the outset say that you anticipated through your intelligence a large crowd on that morning?

**Mr. Garry:** That is correct. I did.

**Mr. Lewis:** How many did you anticipate? Can you tell us? What did your intelligence suggest to you about the numbers? Roughly; I don't—

**Mr. Garry:** We get our intelligence based on the number of vehicles that we might expect; when I say vehicles, I mean buses as a rule. You base your estimate on the numbers by the content of the vehicles. Usually buses are either 40-passenger or 60-passenger vehicles, as the case may be.

**Mr. Lewis:** What did you anticipate, roughly, in numbers of people? I can understand that it would be off occasionally; that can happen. How many did you think would come?

**Mr. Garry:** As I recall, we anticipated approximately 120 from Windsor and I think there were supposed to have been possibly 80 from the London area.

**Mr. Lewis:** So you anticipated 200?

**Mr. Garry:** Approximately, yes.

**Mr. Lewis:** How many turned up?

**Mr. Garry:** Two buses came from Windsor, and I think we ended up with approximately 195 demonstrators on the line that morning.



Mr. Mackenzie: Including the strikers?

Mr. Garry: Yes, including the local picketers.

Mr. Lewis: Do you mean your discrepancy was five people? You anticipated 200 and you got 195? You said your intelligence was—

Mr. Garry: These are outside picketers that I am referring to. I am not counting the local picketers.

Mr. Lewis: But you said your intelligence reports the day before suggested to you a much larger number would arrive. How many did you think were coming?

Mr. Garry: We estimated two 60-passenger buses from Windsor, as I recall.

Mr. Lewis: Right.

Mr. Garry: Plus two 40-passenger buses from London.

Mr. Lewis: So you anticipated two hundred outside picketers would arrive?

Mr. Garry: That is correct.

Mr. Lewis: And you are saying that 195 did arrive?

Mr. Campbell: No. In total it was 195.

Mr. Lewis: Okay. You're saying about 100 arrived.

Mr. Garry: Yes.

Mr. Lewis: Then in answering Mr. Deans earlier, you indicated that one of the reasons you had looked at riot police was because of the large number of people who would come—right?

Mr. Garry: That is correct.

Mr. Lewis: Yet 200 people didn't come. Only about 100 people came and you found it necessary to dress in riot gear, roughly one police person per two outside picketers? Does that make sense to you, staff superintendent? Did they really pose a threat of that proportion?

Mr. Garry: I think you will find that in the picket line incident we were not outnumbering the picket line at that time.

The point I am making is this: you have people there who are in possession of crowd-control equipment, based on intelligent information. You have no way of knowing exactly what the mood of the demonstrators will be and, as I have told you before, there are many occasions where we don't employ crowd-control equipment; we employ normal police uniforms.

In this particular incident at the plant when the picket line declined to disperse, in my considered opinion it was in the best interests of both the police and the demonstrators to use this type of equipment.

An hon. member: But you already had it on them.

Mr. Deans: Would you allow me to ask you another question with regard to what you just said?

You indicated to me that prior to any incident of any kind you went and spoke with the vice-president of the local when they first arrived and you discussed with him the need for moderation and understanding, I assume.

Did it ever occur to you when you were then faced with the crisis—here you were with these nasty people, stopping that bus, and you had to get the bus through—did it ever occur to you to talk to him again and say to him: "Hey, look, we don't want any trouble here. How about getting your guys back off the road?"

Mr. Garry: I did speak to him again.

Mr. Deans: What did he say?

Mr. Garry: He acknowledged my request. He said: "I will do what I can".

Mr. Deans: And then what happened? When did you do that?

Mr. Garry: That was approximately ten, fifteen minutes before the arrival of the employees. I believe I stated that I went and spoke to the vice-president of the local before the arrival of the employees and asked for his co-operation.

Mr. Deans: Right, and he said he would do what he could.

Mr. Garry: He would do what he could.

Mr. Deans: And then you spoke to him again? You spoke to him twice, did you?

Mr. Garry: I spoke to him once on his arrival, on the arrival of his party early in the morning. And I spoke to him on a second occasion, approximately 15 minutes before the arrival of the employees at the plant.

Mr. M. N. Davison: At exactly what time did you order the police officers to be dressed in the combat gear?

Mr. Garry: That was after I had my discussion with Mr. Labute at the picket line, before the arrival of the employees.

Mr. M. N. Davison: That was your first discussion or your second?

Mr. Garry: My second discussion.

Mr. M. N. Davison: What time of day was that exactly?

Mr. Garry: That would be approximately 7 o'clock in the morning, between a quarter to and 7 in the morning.

Mr. Lewis: How many other police were there, just out of curiosity, not in combat gear?

**Mr. Garry:** I believe we have a situation report available that indicates the number of police we had in reserve at that time.

**Mr. Lewis:** You had 42 in combat gear. How many others were in the area?

**Mr. Garry:** We had 40 members held in reserve at other locations and 53 male members in reserve, four female members in reserve and the 14 female members that we deployed and the 30 members that were on the crowd-control unit.

**Mrs. Campbell:** I thought there were 12 females you deployed.

**Mr. Lewis:** No, it was just a mistake, I guess.

Can I get this right? You had 40 police officers at locations, presumably on the periphery, out of sight? Is that fair?

**Mr. Garry:** That's correct.

**Mr. Lewis:** And you had 53 in addition to that?

**Mr. Garry:** That's correct.

**Mr. Lewis:** And then you had the combat troops—sorry—the crowd-control people in addition to that?

**Mr. Garry:** That is correct.

**Mr. Lewis:** That means, if I understand it, you had 137 police officers, male and female, 44 of them in crowd-control riot gear, all of them within the relative circumference of the Fleck plant for a potential intelligence report of 200 outside picketers, plus the Fleck workers, but an actual outcome of roughly 100 outside picketers plus the Fleck workers. Do you not think that might be described as over-kill, staff superintendent?

**Mr. Garry:** As I said, you have these people based on intelligence, and if you have an inaccurate intelligence report and the demonstrators or picketers don't arrive in the numbers that you have had reported then it isn't always possible to immediately start re-deploying. I could start immediately re-deploying my personnel from the area, say maybe 15 or 20 minutes after the arrival of the group and I could present to you then a different picture than we have here now. I think this is an honest picture. The people we were holding in reserve at other locations were quite removed from the plant that is having industrial problems.

**An hon. member:** How far away were they?

**Mr. Garry:** They would be possibly two to three miles and in some instances they would be as far away as Exeter.

**Mr. Lewis:** I don't know what the Solicitor General—and I'll shut up after this—but you know, Mr. Solicitor General, I find this just

a little frightening to think that in a dispute which you yourself have characterized as being not too unsettled for much of the time, this kind of—forgive me—explicit OPP provocation would take place. And it does really worry me a little. I'll be quiet now, but I don't know how in Ontario, in a little western community you can mount in anticipation—based on intelligence reports which turned out to be false—that kind of potential response to working people. That really does disconcert me, as a member of the Legislature, my ideology notwithstanding—44 of them in combat uniform and all the others in the immediate area. I really think that the OPP might ask itself the extent to which normal reasonable citizens wouldn't respond anxiously in the face of what they see explicitly in front of them and what they may know lurks beyond. I am not even asking a question. I am just saying it and I am stepping back.

**Mr. Garry:** Could I respond, please?

**Mr. Mackenzie:** Superintendent, were you in charge when Dennis McDermott was there?

**Mr. MacBeth:** May I interrupt? My name is on the list. I spoke to you before 12 o'clock.

**Mrs. Campbell:** My name is on the list too.

**Mr. MacBeth:** Well, Mr. Chairman, you talked about using alternating questions in this justice committee. Now we have had questions here from, I would say, at least six or seven of the NDP members in succession. They have entered the questioning under the guise of supplementary questions. Some of the rest of us have some questions and I put my name on your list at about 11:55, Mr. Chairman. I know you are trying to be fair but—

**Mr. Chairman:** Mr. MacBeth, I gather it's a point of order or perhaps it is just a question of the chair.

**Mr. MacBeth:** It's a point of order, yes, as far as the proceedings of this committee and our past practices have been.

**Mr. Chairman:** I suspected that you or someone else might rise on that point of order and the first question—

**Mrs. Campbell:** It's a legitimate question of the chair.

[12:30]

**Mr. Chairman:** Well, I think we can decide that, Mrs. Campbell. The first question then, on which the subsequent supplementaries were based related to the time sequence of events and communication, if any, between the police and the two principals in the particular dispute. All questions, to my under-

standing, and we can check the record on it, related to that. I do have a list. You are next on the list, Mr. MacBeth, after the minister has concluded his comments on the original questions by the leader of the NDP.

**Mr. Kennedy:** What are the other names on the list?

**Mr. Chairman:** You are after Mr. MacBeth. Mr. Deans is also on the list.

**Mrs. Campbell:** Is it permitted for me to conclude because I did yield on supplementaries, quite appropriately? I am not objecting to it. I don't think, with respect, that this is going with great order. I think we all want to get at the facts, but perhaps we all would like to share in the debate.

**Mr. Chairman:** Carry on then, Mrs. Campbell.

**Mr. Stong:** On a point of order, Mr. Chairman, the staff superintendent wanted to say something in response to Mr. Lewis and he was deprived of the opportunity. Before going on to a new line of questions, I wonder if he could be permitted to respond to Mr. Lewis.

**Mr. Chairman:** I think that is reasonable.

**Mr. Garry:** My response, Mr. Lewis, is that if my intelligence reports were accurate—and you are going to hear a bit of ifing here—if the situation got out of control and I didn't have sufficient police at the scene to maintain control and there were serious personal injuries, loss of life or extensive property damage, I would feel that I hadn't been carrying out my responsibilities to the citizens of the community, the strikers and other people in the area to try to maintain control. That is why you may consider it overreaction or overkill, as you say, but I think that I would be under criticism in that regard if that situation developed.

**Mrs. Campbell:** There was something which was said which I may have lost with some of the interjections. I would like to go back to the time when you approached the leader the second time. I understood, perhaps incorrectly, that you said it was at that point that you decided to actively deploy the 44 police officers. Is that what you said?

**Mr. Garry:** I think we are hung up on the word here.

**Mrs. Campbell:** Will you explain it?

**Mr. Garry:** I think deploy possibly may be the word that is becoming confusing. When I refer to deployment, I refer to putting the people that I am going to utilize in position. You may misunderstand that. You may think that by deploying them I move them through

the picket line at that time. That was not the case.

**Mrs. Campbell:** No, it wasn't what I thought you said. They were standing in position.

**Mr. Garry:** When I say deploying I mean putting the people into position to be required if necessary. Then the actual deployment or movement of the crowd control unit occurred after the arrival of the employee buses and the vehicles and after the three requests to open the picket line.

**Mr. M. N. Davison:** Excuse me, in answer to an earlier question of mine you said that you ordered them to dress in their combat gear at some time between 6:45 and 6:50, which was just a couple of minutes after you had your second conversation with the representative of the UAW. Did you not? I'm sorry, you said crowd control.

**Mr. Garry:** You are talking about deployment and you are talking about dressing the people?

**Mr. M. N. Davison:** I asked you when you ordered them to dress and you said 6:45 to 6:50. Is that not right?

**Mr. Garry:** It would be approximately that time, yes.

**Mrs. Campbell:** What I'm trying to get at, if I may, is that according to my understanding of the testimony when you addressed the president the second time, he said that he would do what he could. I think those were your exact words.

**Mr. Garry:** That's correct.

**Mrs. Campbell:** Could you tell me what decision you made at that point, whether it's deploying on whatever the correct verb is? What was your decision after you had that second conversation with him?

**Mr. Garry:** My decision at that point was to have these people alerted and prepared if called upon and if they were required. That was when I made my decision to have them available.

**Mrs. Campbell:** Could I go to an interval in time? The man has said he would do what he could. What time did he have to do anything before you made that decision?

**Mr. Garry:** He would have had 20 minutes to 25 minutes before the arrival of the employee bus, in my estimate.

**Mrs. Campbell:** I don't think that was my question, Mr. Chairman. I'm concerned that you get an answer, and it's in your own words, that he would do what he could. From the conversation earlier—it was perhaps a misinterpretation on my part—you at that



point made a decision with reference to the 44 specially-equipped members of the force. Is that correct?

**Mr. Garry:** That's correct. I have to time my decision on the estimated time of arrival of the employees. I can't make my decision to have my people deployed and available on their arrival because they are not located right at the plant. Does that clear it up?

**Mrs. Campbell:** But your 44 people were right at the plant, weren't they?

**Mr. Garry:** They were located in another building in Huron Park. They weren't located right beside the plant, so that—

**Mrs. Campbell:** I see. So after he said he would do what he could, then you called them to come forward, to be ready, is that the gist? The wording is—

**Mr. Garry:** Yes, that's correct. I asked them to be prepared in the event it was necessary for them to be used in opening the picket line, yes.

**Mrs. Campbell:** I see, and you did that immediately after. Was there any indication at all, other than the statement that he would do what he could, that he would be ineffective in doing anything at that point?

**Mr. Garry:** Not on his behalf. No, he was co-operative—he appeared to be co-operative to me.

**Hon. Mr. Kerr:** He just wasn't too successful.

**Mr. MacBeth:** Mr. Chairman, I don't care whether it is the leader of the NDP's final question or his first question. Has he got the right to ask questions in this committee?

**Mr. Cassidy:** I made an opening statement I asked no questions after that, Mr. Chairman.

**Mr. MacBeth:** It doesn't matter whether you did or not. First of all you're not a member of this committee; you may be assigned here today, I don't know. But I happen to be a member of this committee, Mr. Chairman, and—

**Mr. Chairman:** I wonder Mr. Cassidy, if you would hold off your questions?

**Mr. Cassidy:** We'll make it very brief because I think it's very germane to this. This is a photograph which—

**Mr. MacBeth:** Mr. Chairman, I have a point of order. Are you going to let him ask—his question or not?

**Mr. Cassidy:**—which occurred just a minute or two before the—

**Mr. MacBeth:** Mr. Chairman!

**Mr. Chairman:** Please. I'm going to ask that you hold the question, Mr. Cassidy.

**Mr. Cassidy:** On a point of order, I would point out that there were only 50 demonstrators on the picket line—

**Mr. MacBeth:** Mr. Chairman, that's not a point of order.

**Mr. Cassidy:**—and I think that the staff superintendent could tell us where the remaining 150 picketers were located.

**Mr. Chairman:** Thank you, Mr. Cassidy. That was not a point of order. I am going to recognize Mr. MacBeth.

**Mr. MacBeth:** Thank you, Mr. Chairman. My questions, I think, will be relatively brief but I think they will cover a field we have not talked about so far. Earlier Mr. Cassidy referred to the police job of maintaining the peace, but I would also suggest to him that there is also the matter of access involved here. I would ask Staff Superintendent Garry if he knows on how many occasions has access been interfered with.

**Mrs. Campbell:** You mean on this strike?

**Mr. MacBeth:** Yes, during the course of this strike. How many times have people who wanted to get into that plant not been able to get in without calling on police assistance, or have been hassled in some way?

**Mr. Garry:** I believe that earlier it was described by Assistant Commissioner Lidstone that in some instances where the plant people understand there is going to be a large confrontation or a large demonstration, they don't open the plant. You might interpret that as being prevented from entering the plant. But for actual confrontation at the plant doors, as it were, there was one other morning I can recall, without checking my records, that there was a confrontation at the rear of the plant doors. There was some scuffling there that occurred when the employees were entering the plant. We weren't right at that particular area at that time.

**Mr. MacBeth:** So you're saying that there was only one occasion then, that the police needed to be called to gain access?

**Mr. Lidstone:** Mr. Chairman, I believe I might be the proper person to answer that question rather than the staff superintendent.

A quick review of the notes I have shows there were at least 11 occasions where people were denied access. I'm not talking about the plant, I'm talking about access into Huron Park. People didn't get into other plants at all. The whole place, the whole industrial complex was shut down. This may have been Mr. MacBeth's question. This is what I took his question to be, and not was there one other occasion where there was a particular

problem at the premises of Fleck Manufacturing?

The problems I had during the time I was in charge at the scene were, time and again, that the pickets and the demonstrations were not at the premises of Fleck Manufacturing. They were at the entrance to Huron Park, on a public road. The thing that gave me concern at that time was that people going to other plants, people not involved in this industrial dispute, were denied access. Worse than that, many of the incidents we saw reported in the press of cars damaged and people hurt did not involve Fleck employees; they were not people heading for Fleck Manufacturing, they were people going to a number of other locations. This gave me quite a lot of concern. On one occasion, when we knew there was going to be a particularly large demonstration, I went to every industry and said, "You can do what you want; it's your decision. But my recommendation is that you give it a lot of consideration before you attempt to have employees go to your plant." On that occasion, those people were most co-operative.

**Mr. MacBeth:** But you are saying there were 11 occasions when had police not been there access would not be readily accessible. Is that the case?

**Mr. Lidstone:** Police were there and access was still not readily accessible, sir.

**Mr. MacBeth:** If the police were not there, could one of these buses bringing in the present labour force get through the line?

**Mr. Lidstone:** No.

**Mr. MacBeth:** The police were not there. The police had to be there necessarily?

**Mr. Lidstone:** Yes.

**Mr. MacBeth:** I think Mr. Deans used the words, "open up the picket lines to let buses through." How many requests were made to open up the picket lines to let buses through?

**Mr. Lidstone:** There were very few because up until after the middle of April when there were large numbers of people, the plant didn't open. It wasn't a request from Fleck Manufacturing, sir, there were requests from other people. Tuckey Beverages and the plastic companies in there made the request on several occasions. I can't give you an exact figure, but on several occasions they contacted me and were concerned that they were denied access.

**Mr. MacBeth:** Mr. Lewis, I think, referred to a request that the plant not operate. Do you know on how many occasions that request was made?

**Mr. Lidstone:** I could count. I could go through my notes here very briefly.

**Mr. Chairman:** The minister suggests just a rough figure. That will expedite it.

**Mr. Lidstone:** I would estimate on nine or 10 occasions, sir.

**Mr. MacBeth:** That the plant could not operate?

**Mr. Lidstone:** That the decision was made not to operate the plant.

**Mr. MacBeth:** So it's reasonable to say that if the police had not been there, access would not be readily available to either an individual or the work staff?

**Mr. Lidstone:** That is correct, sir.

[12:45]

**Mr. MacBeth:** I think that is the point I wanted to make. We're looking at the police as though they have acted unduly. I would like to remind all members of the committee that if it was not for the police presence there, access would not be available. That is part of the law, not just to keep the peace, but also to permit those people who want to get in and out of their plant to do so without intimidation and without fear of physical violence.

**Mr. Chairman:** Before going on to the next question and Mr. Riddell, the minister informs me that if the voting members of the committee wish these gentlemen to appear back at our next session of estimates he can arrange to have them here. That may govern how you ask your questions or your feeling about it.

**Mr. Riddell.**

**Mr. M. Davidson:** A supplementary — I thought I was on before; you said I followed MacBeth.

**Mr. Chairman:** No, I said you follow Mr. MacBeth in order of the Conservative members.

**Mr. M. Davidson:** May I ask a supplementary to Mr. MacBeth's question?

**Mr. Chairman:** One supplementary? With Mr. Riddell's permission.

**Mr. M. Davidson:** Just one supplementary. With regard to access to the plant, you mentioned, I believe, there were 11 occasions that access was not made available. The strike, I understand, started some time at the beginning of March. With your knowledge of strike situations in the province of Ontario, do you think 11 occasions in that period of time is excessive?

**Mr. Lidstone:** I have never experienced a strike situation where people from other

plants were denied access to their plants because of a strike in the neighbourhood. Is this what you're referring to, sir?

**Mr. M. Davidson:** No.

**Mr. Lidstone:** This, I think, was a unique situation.

**Mr. M. Davidson:** Denying access.

**Mr. Lidstone:** They were denying access, not only to Fleck but to all the people who were coming in. This, I think, makes the situation somewhat unique. It was aimed at Fleck Manufacturing but the people who were being affected on many occasions were not Fleck employees, but were people heading for other locations. I think that's sort of a unique situation as far as I am aware in the province of Ontario. It's unique because pickets stopped people from going to adjoining or neighbourhood plants because of a legal strike at one particular location.

**Mr. M. Davidson:** It has happened before.

**Mr. Lidstone:** It may have happened in Metropolitan Toronto. I'm not aware of it where we have had the experience.

**Mr. M. Davidson:** Thank you.

**Mr. Chairman:** Mr. Riddell, please.

**Mr. Riddell:** Thank you, Mr. Chairman. It was not my intention to get involved in these discussions for reasons which I think are obvious to the members on this committee. By the same token, I feel I have to carry out my parliamentary functions. I would like to ask Staff Superintendent Garry if he or any of the staff members in the extra detachment received complaints from residents of Huron Park or from people who lived outside the park but worked in the various industries within the park. Did you receive complaints about their uneasiness to go through the picket line; and their annoyance at being stopped every time they approached the picket line, particularly when outside workers came in to beef up the line; at having to report where they were going and where their final destination was, et cetera? Have you received any of these complaints or has the extra detachment staff?

**Mr. Garry:** I haven't personally received any but there may have been some filed with the extra detachment. The detachment would be able to provide that information.

**Mr. Riddell:** Was there an occurrence about two days before the last incident where you had to put in the riot staff? Was there an occasion where some of the outside workers or workers who came from other areas broke into the plant and actually got involved in fights with people within the plant?

**Mr. Garry:** Yes, that incident did occur. That's the one I mentioned previously. There was a scuffle at the rear of the plant and there was some damage to a vehicle and some scuffling. We were not right at the plant at that time.

**Mr. Riddell:** How many police did you have on hand at that particular time? Have you any idea? Were there police available when the fight first broke out or did the police have to be called in?

**Mr. Garry:** The police weren't available in the immediate area. I had staff available, but they weren't deployed in the area of the plant. They were deployed outside the plant area. And I personally visited the scene of the occurrence as soon as we got the call. I responded to that occurrence personally with Corporal Hanes, who was with me at the scene within one minute of the call. But my people were deployed outside the Huron Park area at that time. They weren't inside the industrial area.

**Mr. Riddell:** Are you aware of a motion or a resolution that was passed by the township of Stephen, in which Huron Park is located, indicating that in any circumstance that public road be kept open?

**Mr. Garry:** No, I don't have that information.

**Mr. Riddell:** Are you aware of any molestation of people living within the park, girls being propositioned by people on the picket line? The girls were not necessarily employees of Fleck but were endeavouring to go into their work in other industries and were being propositioned and molested and what-have-you by the people. What I'm trying to do is to establish the need for the police. If you can't answer, maybe Mr. Lidstone can.

**Mr. Lewis:** Have you talked to the Fleck management about their relationship with the employees?

**Mrs. Campbell:** Were they molested?

**Mr. Deans:** On a point of order.

**Mr. Chairman:** Order. Order, please. Mr. Deans, on a point of order.

**Mr. Deans:** The point of order I wanted to put to you, Mr. Chairman, is that if Mr. Riddell is saying that these things happened then he should say so. If he is fishing, then he should perhaps take a week off and go fishing.

**Mr. Chairman:** Mr. Riddell.

**Mr. Riddell:** Mr. Chairman, I—

**Mrs. Campbell:** We have allowed a wide range of questions. Surely we can continue to allow them.



**Mr. Riddell:** Mr. Chairman, as early as this morning I had one of the lecturers at the Centralia College of Education express his dissatisfaction and annoyance with what is going on at Huron Park. He indicates that every time he endeavours to go through the picket line whenever there are workers beefing up the line from outside areas he is stopped and he has to go through the routine of explaining where he is going and everything else. He is getting sick and tired of it. He asked me this morning if there was anything that could be done.

I was called not too long ago by the husband of one of the wives who indicated to me that the girls were being propositioned out in the residential area. Now I am simply asking have you people received the same complaints?

**Mr. Lidstone:** Yes, I am aware of these complaints. I am not sure that the word is propositioned. I would put it down to more a lewd suggestion—of somebody making comments to people. That was my interpretation of the complaints, rather than somebody—

**Mrs. Campbell:** You mean boys will be boys.

**Mr. Lidstone:** —making the sort of comments that one might make in a—

**Mr. Riddell:** But there have been a number of occurrences at the park which would indicate the need for police to be on the scene.

**Mr. Lidstone:** Mr. Riddell, in the Huron Park residential section—which we still refer to as PMQs because they are the old post married quarters; they are across the road—we had people there night after night because we had people threatened with death in there. We were concerned and we took it seriously. In fact, we had people staying in a residence there at night, because we certainly took them as not idle threats.

**Mr. Riddell:** To get back to Mr. Deans' original questioning as to what the police involvement was in the very first place, were there any complaints directed to the extra detachment just about the time when the strike was being called? Did some of the workers at the plant complain to the police that their lives had been threatened because they indicated that they were not going on strike?

**Mr. Lidstone:** With respect to that question I find myself in the same difficult position that this is part of what will be heard before the Ontario Labour Relations Board and I don't know whether it would be proper for me to answer.

**Mr. Riddell:** I'm just endeavouring to establish the need for the police. Whether they were needed in the numbers that were there is questionable in my mind, but I just wanted to establish the need for police out there—from the reports that I have been getting, the telephone calls and the letters, et cetera.

**Mr. Chairman:** Michael Davison.

**Mr. Swart:** Could I have a short supplementary to Mr. Riddell's question?

**Mr. Chairman:** I would ask that we curtail the supplementaries because members of the committee who have not yet had an opportunity to ask a question, such as Mr. Davison, who is next on my list, will not get an opportunity before 1 o'clock. To be in order, we must also put the question before 1 o'clock as to whether or not these gentlemen will be invited back. I will want to have the opinion of the two opposition critics. We are dealing with an awful lot in six minutes. I would ask Mr. Swart not to ask that supplementary.

**Mr. M. N. Davison:** Mr. Chairman, I had two motions to put but if you are going to question the committee as to whether or not these gentlemen should be invited back, I will not move such a motion at this time.

The motion I would like to place before the committee is that Hansard be instructed to prepare as soon as possible transcripts of today's hearing and that copies of that transcript be provided immediately to members of the justice committee and any other interested parties that request them from Hansard and to the witnesses who testified at today's hearing.

**Mr. Chairman:** I have a procedural motion by Mr. Davison who is a member of the committee.

**Mr. MacBeth:** On a point of order: Are these committee hearings not reported automatically?

**Mr. Chairman:** They are reported automatically but the transcripts are not necessarily speeded up. I think that that was the procedural motion.

Motion agreed to.

**Mr. M. N. Davison:** I was going to move a second motion, but I understand that you were going to put the question before we adjourned to committee members as to whether or not these gentlemen should be invited back.

**Mr. Chairman:** I am going to put that question right away so that we have an opportunity to hear from the two opposition critics.

The question is whether or not Assistant Commissioner Lidstone, Commissioner Gra-

ham and Staff Superintendent Garry, whom we seem to be constantly demoting through my error, but who is a superintendent, should be invited back to the next session of the estimates which will take place on Wednesday.

I recognize the Liberal critic, Mr. Stong.

Mr. Stong: How many hours do we have left?

Mr. Chairman: We had seven to begin with. We'll subtract about one and a half hours.

Mr. Stong: We have five and a half hours left.

Mr. Chairman: Yes, we are talking about five and a half hours.

Mr. Stong: I hate to cut off a debate but we have 19 items left to go. I do want to debate these 19 items. We cannot do it in five and a half hours. Perhaps I should move that we have hours added to this committee if we are going to discuss Fleck. I don't want to cut Fleck off, but if we are going to be deprived of any more hours, then I would ask that they be added on at the other end. There are 19 items, and I do want to cover each one of these items. If we can't have any extra hours, then I would prefer to have the Fleck debate wait until there is extra time at the end, when we have dealt with the rest of the 19 items that are on our agenda.

Mr. Chairman: In order to handle that, Mr. Stong, we would have to seek the advice and the permission of the House leaders. I gather that your motion is that we will seek the advice of the House leaders to add on the time that was spent this morning and at a possible next session?

Mr. Stong: Perhaps we could deal with the 19 items in five and a half hours, but if we spend another day on Fleck we are not going to deal with those 19 items. I don't want to cut debate off on the Fleck matter, but I also want to cover these items. They are very important. We are dealing with the OPC. We are dealing with the Ontario Provincial Police itself. There are some very important items that these gentlemen are going to be required back for anyway.

Mr. Chairman: May I just paraphrase it then in the form of a motion. If you agree with it, then you can move it.

Mr. Stong moves that the chairman seek permission from the House leaders to add another session in which these people will be invited back on the condition that five and a

half hours will remain for dealing with the estimates.

Mr. Stong: That's fair.

Mrs. Campbell: On a point of clarification: If the Fleck matter is to be dealt with separately, as I believe it ought to be, it should not be part of the estimate hours. Then I would also suggest to my colleagues that perhaps we ask that today's deliberations should not be deducted from the estimates. We do have to deal with estimates but this is a vital matter.

[1:00]

I think there is precedent, is there not, for some of these matters which are of special significance being dealt with quite apart from the estimates' time?

Mr. MacBeth: I would remind the committee of the other work we have to do. As you know, we have many bills ahead of us, apart from estimates. We have many from the AG and from the Solicitor General himself.

Mrs. Campbell: Maybe we can send some of those bills to another committee, because this is hard work.

Mr. MacBeth: I think perhaps that legislation is the main function of the House and the committee, and I would be very reluctant to see any time taken away from what I consider a very important function of our committee.

Mr. Chairman: I do not have a motion or even a suggestion before me. Mr. Stong, would you move a motion?

Mr. Stong: I move a motion, as you have worded it at the beginning, Mr. Chairman, that you have our permission to seek from the House leaders an extra session to cover our estimates.

Mr. Chairman: Failing that then these gentlemen will not be invited back?

Mr. Stong: I think they will be needed back for the vote we are dealing with.

Mr. Chairman: It is supported by the NDP critics. The following members are entitled to vote on that motion: Mr. Bradley, Campbell, Cureatz, Davison (Hamilton Centre), Eaton, Handleman, MacBeth, Philip, Renwick, Roy, Kennedy, substituting for Sterling, Stong, Swart, Taylor, Belanger, substituting for Williams, and Ziemba. Only those may vote.

Mr. Kennedy: We are asking them if this can take place, right?

Motion agreed to.

The committee adjourned at 1:03 p.m.

## CONTENTS

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Friday, May 26, 1978

Ontario Provincial Police, Management and support services program .....	J-111
Adjournment .....	J-129

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
 Cassidy, M. (Ottawa Centre NDP)  
 Davidson, M. (Cambridge NDP)  
 Davison, M. N. (Hamilton Centre NDP)  
 Deans, I. (Wentworth NDP)  
 Kennedy, R. D. (Mississauga South PC)  
 Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
 Lewis, S. (Scarborough West NDP)  
 Lupusella, A. (Dovercourt NDP)  
 MacBeth, J. P. (Humber PC)  
 Mackenzie, R. (Hamilton East NDP)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Renwick, J. A. (Riverdale NDP)  
 Riddell, J. K. (Huron-Middlesex L)  
 Stong, A. (York Centre L)  
 Swart, M. (Welland-Thorold NDP)

**From the Ministry of the Solicitor General:**

Garry, H. T., Staff Superintendent, Ontario Provincial Police  
 Lidstone, J. W., Assistant Commissioner, Ontario Provincial Police













No. J-6

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Wednesday, May 31, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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# LEGISLATURE OF ONTARIO

WEDNESDAY, MAY 31, 1978

The committee met at 10:08 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

On vote 1604, Ontario Provincial Police, Management and Support Services Program; item 1, office of the commissioner:

**Mr. Chairman:** I don't think we can wait any longer. I am going to recognize a quorum. We are 10 minutes past the time we should have commenced.

**Mr. Mackenzie:** Mr. Chairman, on a point of order: I don't intend to take any time, but I would like to mention that there are a number of the Fleck girls who were on the picket line that day here, and if I could just read their names into the record I would like to—Barb Harrison, Kathy Cockwill, Dorothy Gaiser, Kathy Broderick, Fran Piercey, Debby Harrison, Mary Ellen Little, Mary Lou Richard; and also Jim Gill who has been working with the UAW, of course. Did I miss anybody?

I am not sure they look that threatening, Mr. Chairman.

**Mr. Chairman:** They look fine to me.

At the second session of the 31st Parliament, Tuesday May 30, 1978, it was moved by Mr. Welch that the time for consideration of estimates of the Solicitor General be increased by two hours.

I just wanted to read that into the record to remind you that we do have an extra two hours, because of the motion by Mr. Stong and Mr. Lupusella that increased time be added to the estimates in order to devote the time that we need to considering this important issue.

I have two substitutions; Mr. Alan Pope is replacing Mr. Eaton and Mr. Bob Mackenzie is replacing Mr. Swart. These people will have voting rights in the committee.

I am going to allow the minister to continue his remarks based on the questions asked by Mr. Cassidy. We will then have a short statement by Commissioner Graham, and then it will be open for questioning by the members. If that meets with the approval of the committee, Mr. Minister, you may go on.

**Hon. Mr. Kerr:** Mr. Chairman, thank you. Commissioner Graham wants to make a short statement this morning—about a 10-minute statement. It will be for the most part a summary of what has taken place and will also be in response to a number of questions asked last Friday regarding the information given to the ministry from time to time on a daily basis. This is the type of thing Mr. Cassidy was questioning last Friday: how we were kept informed on a day-to-day basis and what degree of knowledge we have about what is going on at the Fleck plant and at the park.

The other point raised by Mr. Cassidy is the question of public funds being used in respect to this matter. I think that was clarified in the House on Monday. I gave the figures asked for by Mr. Cassidy last Friday. I will be happy to give more details if there are any further questions on that point.

However, I think if Mr. Graham wishes to go ahead with his remarks now I suggest he be given the opportunity to do so.

**Mr. Graham:** Thank you, Mr. Chairman, and members of the committee. I appreciate this opportunity to say what my position has been during this difficult period.

The situation first came to my attention on March 7 after two people had been arrested on the picket line for obstruction the previous day. I realized the matter was of grave concern and I accordingly that day assigned Staff Superintendent Garry to Exeter.

There were conflicting press reports as to what had already occurred, including the statements of our officers to workers on March 3. This is now part of proceedings before the Ontario Labour Relations Board and, as indicated on Friday, it should not be further discussed at this time.

However, due to these circumstances I relieved Assistant Commissioner Lidstone from all other duties and assigned him to the Fleck strike on March 10.

I should point out that the Police Act sets out the authority and responsibilities of the commissioner and the members of the Ontario Provincial Police force. The basic responsibility, of course, is the protection of life and property. All our men and women to the rank of sergeant major are trained in crowd control. There is a one-day training course



they must attend each year. It is compulsory. As the title indicates the emphasis is on crowd control—to control crowds, not to injure demonstrators; and important as well, for the police not to be injured themselves.

Commencing March 6, 42 charges have been laid—mostly under the Criminal Code but some under provincial statutes.

On March 10, 19 policemen from No. 6 District were assigned to this duty when there were indications that demonstrators from various parts of western Ontario would be congregating at Huron Park.

On March 14 the plant remained closed after advice from Assistant Commissioner Lidstone that the safety of the employees could not be guaranteed. Even though the plant was closed there was damage to the extent of \$500, and a car operated by workers proceeding to their employment at another factory was overturned. All workers at the six plants in the area were obstructed. On that date five charges were laid under the Criminal Code.

At that point, I should mention, that in my opinion this was an unlawful assembly; that is, "An assembly of three or more persons with the intent to carry out any common purpose, assembled in such a manner or so conducting themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear on reasonable grounds that they will disturb the peace tumultuously."

It can be said without reservation that the other workers in the six plants were fearful. It can be said also that the 300 students and their instructors at the agricultural college, who had to pass through here to enter these establishments were also fearful, as were the people living in permanent married quarters across from the entrance to Huron Park.

[10:15]

On March 16 and 17 there were reports that the president of the UAW announced there would be more women pickets on the line and, "Let's see the big policemen push them around." On March 20, female members of the OPP were assigned to strike duty.

On March 22 for the first time—I beg your pardon?

Mr. Renwick: March 20?

Mr. Graham: Yes, sir.

Mr. Renwick: That's funny. My notes show that on Friday, March 17, there were four female officers and 35 female officers in reserve at the plant.

Mr. Graham: Well perhaps I should more correctly say that a large number of female

constables were brought in on March 20. We must have had nearly all we have.

Mr. Renwick: Thirty-nine is a fair number.

Mr. Graham: And we have close to 70.

Mr. Renwick: Sorry for the interruption.

Mr. Graham: On March 22, for the first time our members were equipped with crowd-control gear. It consists of a fibreglass helmet and a protective visor, along with a 36-inch baton, some of which are made of wood and some are fibreglass. They're not to be used as clubs, and to my knowledge there's no evidence they have been so used. I might say the helmet and the visor are there for the protection of our men and women. When you go into a construction site, it is necessary by law to wear a helmet, and I would be derelict in my duty if I did not provide at least this much protection for my people.

However, we decided to project a low profile. On March 29, only eight OPP officers were on duty. There were 160 demonstrators from Windsor, London and Fleck, and there were criminal offences.

On March 30, 200 demonstrators arrived in cars from Kitchener at 4:30 a.m. Several people smashed their way into the plant, the night watchman was forced to flee his post, the public road was blocked and no one was permitted to enter the complex. One officer was injured.

It was then evident that a low profile was not effective and what was happening at this point was intimidation: "Everyone who wrongfully and without lawful authority for the purpose of compelling another person to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing, with one or more other persons." There are various subsections, and it then follows that person, "in a disorderly manner on a highway," or section c, "blocks or obstructs a highway, is guilty of a criminal offence." Undoubtedly this was a case of flagrant intimidation.

On April 2, on television news, a Kitchener man allegedly said, and I quote, "We got five guys arrested today and we're not putting up with this any more. We come down next week, we're coming down with baseball bats and we're going to kill them, tell you that right now. And that's what it's coming to".

Incidentally, there was an occasion when one man was arrested with a baseball bat with nails in it.

Section 25 of the Criminal Code authorizes the police by law, in the administration or enforcement of the law "if he acts on reasonable and probable grounds, justified in doing

what he is required or authorized to do and in using as much force as is necessary for that purpose." We were acting under that law.

On April 5, press reports indicated the president of UAW said, "Let the cops start pushing Dennis McDermott around. I'm an old street fighter and I don't push too easy." And he added: "I believe that in this thing there's a gunpowder trail leading to the office of Premier Billy Davis and before I'm through I'll put a match to it". Very strong language.

On March 30, police observed a demonstrator carrying an aerosol can apparently containing fuel to start cold engines. A cigarette lighter was attached to it. Although the danger of the device was not realized at the time, investigations were made and it was found to be an offensive weapon capable of badly burning and blinding a person. It's actually a flame thrower. I have a photograph of a similar device if any of the committee would care to look at it.

**Mr. Renwick:** Where did that come from?

**Mr. Graham:** This came from a device we made ourselves fashioned after a device that was seen on one of the picketers.

**Mr. Renwick:** Just a moment; what you're saying is that that photograph is not the photograph of any instrument or weapon that you took a photograph of.

**Mr. Graham:** No. It is not.

**Mr. Renwick:** Then it's not worth the film it's printed on. Thank you.

**Mr. Graham:** Well, I disagree with that.

It should be emphasized that we were not concerned with the local pickets but we had reason to be very much concerned about the demonstrators who were coming from various points in southern Ontario. We have never said that the ladies in this room were any threat to us.

On April 7, my officials and I met with the Solicitor General and advised him of our strategy for April 12 when Dennis McDermott was reportedly going to lead a mass rally at Huron Park. As you know there were no problems on that date. About 600 demonstrators arrived. Following that, our personnel were de-escalated.

I should say at this point that the Solicitor General has had many discussions with me and my staff. He never interfered in any way or put any pressure of any kind on any of us. He has simply told us of his concerns, the questions that he has been asked in the House and matters that he had heard from other people. He asked for explanations and we gave him explanations.

**Mr. Lupusella:** May I ask a question, Mr. Chairman?

**Mr. Chairman:** I would prefer to have the commissioner make his statement, Mr. Lupusella, and then all members will have an opportunity to question him on it.

**Mr. Graham:** On May 17, 75 demonstrators arrived from Windsor to bolster the 22 Fleck pickets. On May 18, the company president advised Mr. Lidstone that from then on the plant would open, regardless of the number of pickets. Preceding that advice and on the same date, four employees had been assaulted and the windshield of a worker's car had been broken inside the plant. It was quite evident that a low profile was not acceptable.

On May 19, Mr. Cassidy addressed a large number of local pickets and demonstrators from Toronto, and there were no incidents. On May 24, our personnel appeared in crowd control equipment. The circumstances have already been discussed at length here on Friday and there's no point in my repeating them.

In my 38 years as a provincial policeman, I have been on police duty at picket lines in gold mine strikes, seamen's strikes and steelworkers' strikes. There is bound to be tension between the police and the demonstrators. It is my opinion that the men and women of the Ontario Provincial Police on strike duty at the Fleck plant have acted with restraint, with discretion and in a responsible and professional manner under very difficult circumstances.

**Mr. Chairman:** Mr. Commissioner, could we have a copy of that statement so that we can have it reproduced and circulated to the committee? Would you please give it to the clerk and maybe we could have extra copies also made available for any of the press who may wish copies?

**Mr. Mackenzie:** Mr. Chairman, I don't know in what order you want to go. I'm in your hands.

**Mr. Chairman:** I have Mr. Renwick and Mr. Mackenzie down. I don't have anybody for the Liberals or Conservatives who has asked. Is there anybody else who wishes to be put on that list?

**Mr. Renwick:** Could Mr. Mackenzie go on ahead of me?

**Mr. Mackenzie:** I'd like to deal with some of the numbers as a start, if I can. I suppose Superintendent Garry is one of the people who relates to the comments just made by the commissioner as well.

**Mr. Chairman:** Would you speak into the microphone, Mr. Mackenzie?

**Mr. Mackenzie:** What I want to deal with is the numbers that are involved in the per-

ceived threat, talking about last Wednesday, May 24, and the police intelligence that allegedly was one of the reasons for putting out the police in the riot gear that particular day.

I listened carefully, twice, along with the others, to the testimony from last Friday. One of the things that was very clear after some discussion was the comment that there were about 195 people there, which you verified. I am wondering if at this point in time you have any correction to make on that, Superintendent Garry.

**Mr. Garry:** On that day I was quoting from the figures I had for May 25 rather than May 24. We had been discussing May 25 with respect to the inference that we had notified plant management that it would be all right to open the plant after the majority of the demonstrators had left to return to Windsor. I was concentrating on that date.

**Mr. Mackenzie:** The next day; the day we were discussing was the day of the incident, the 24th.

**Mr. Garry:** Immediately prior to that we had been discussing May 25. I quoted figures—

**Mr. Lewis:** On a point of privilege, Mr. Chairman: Superintendent Garry, you and I had a very explicit exchange in which—

**Mr. Garry:** I was very careful on it.

**Mr. Lewis:** It was very explicit, very particular, very careful, asking you exactly how many demonstrators were on that line on the morning the incidents occurred. There was no vagary. It is inconceivable—I say it in the presence of my Conservative colleagues who were here in the committee—that there could have been any question. We were discussing the number of people there who prompted the necessity for your riot police, your crowd control officers to move in, and you said there were 195 people on the line. You said that was a smaller number than you anticipated according to your intelligence reports—but there were 195; and we pressed hard for that. Can you tell this committee whether you have any correction to make to that figure?

**Mr. Garry:** Yes, I have, Mr. Lewis.

**Mr. Lewis:** Could you make it please?

**Mr. Garry:** On May 24, despite the fact that our intelligence had indicated to expect two 60-passenger buses we ended up on the picket line that morning with a count of 52 picketers.

The bus drivers indicated they had brought 64 picketers with them, but our count indicated 52. In addition to that there were 14

female picketers from the local union and three male picketers on the line.

Those are our figures for May 24.

**Mr. Lewis:** I am trembling, Superintendent Garry, and I don't often tremble in committees because I am an old pro. I have been around this place a long time. But I want to point out to you what you did on Friday morning.

**Mr. Sterling:** Mr. Chairman, on a point of order—

**Mr. Lewis:** I am on a point of privilege; and I am on a point of privilege because I genuinely attempted to find the facts on Friday, and as a member of this House I was misled so dramatically that I can hardly cope with it. It may not have been advertent, but I want to clear it now because it is important to me, if to no one else. You said to me under close questioning that there were 195 people massed on that line. The implication that flowed from that, clearly, was there was so many people, such evidence of uncertainty, so much pressure and tension building up from that 195, that you had to have 44 people in crowd control move in on that line and a total of 137 police officers nearby.

Now what you are saying this morning is that there were a total of 69 picketers; not 195 but 69 picketers. I want to say to you, Superintendent Garry, that in all my years I haven't been so misled in a committee of this Legislature this way.

Norm Webster said in a column the other day how guileless your response was and how completely open it seemed to be and how one couldn't possibly but agree with it. You exaggerated what you said to this committee by three times. You created a sense of what was happening there which was totally false. I want to tell you, Superintendent Garry, that makes me wonder about the judgement you exercised that morning and about everything else that you said to this committee.

[10:30]

That wasn't just a rambling exchange we had. I pushed and asked specifically; and specifically you repeated again. You were there, you were physically there. You gave the order for those people to move in on the line.

How is it possible for you, as the man who gave the order, not to be able to distinguish between 195 and 69? I am not a practiced crowd control person, Superintendent Garry. I am just a mortal politician, but I can make that distinction, and if you couldn't make the distinction between 195 people and 69 people, maybe your judgement was false—was wrong, forgive me—was wrong about whether or not



those riot squad police should move in on those picketers.

Maybe if we were able to bring some of the women from Fleck to testify at this microphone with an honesty which no one has ever challenged, maybe we would learn what the police said on that morning and what you said on that morning at the moment when the charge occurred.

Mr. Chairman, I say to you, I say it with great regret, that the evidence which Superintendent Garry gave on Friday is not really trustworthy and I am really rankled and unsettled by it. I am sorry to have put it so strongly.

Hon. Mr. Kerr: That is rather strong. We should give the staff superintendent an opportunity to explain. My figures, the information I have, are closer to what the staff superintendent said last Friday than what Mr. Lewis is saying this morning.

Mr. Lewis: What are you talking about?

Hon. Mr. Kerr: Maybe Assistant Commissioner Lidstone may have some figures there to confirm—

Mr. Lewis: I am sorry, Mr. Minister, what are you saying? That your figures are—

Mr. Renwick: You are reducing it to a numbers game, are you?

Mr. Sterling: Who started it?

Hon. Mr. Kerr: Are you talking about May 24 or May 25?

Mr. Renwick: The evidence was given here on Friday of last week.

Mr. Lewis: We took it in good faith. We took it from the police in good faith in this committee.

Mr. Chairman: We have a point of privilege, I will recognize Staff Superintendent Garry.

Mr. Mackenzie: Mr. Chairman, before you do that, my next two or three comments all deal with these numbers and what went on there. Now you may be going through some of it again if I am not allowed to finish what I started. That is all I am saying.

Mr. Chairman: I will only recognize you if you are speaking on the point of privilege, because that is what is before us at the moment. Is that what you intended to address yourself to, Mr. Mackenzie?

Mr. Mackenzie: Please give me some help, then. The point of privilege deals strictly with the numbers?

Mr. Chairman: That was my understanding.

Mr. Mackenzie: The point I want to deal with is the numbers, and I can leave the rest of it until we have cleared this point.

Mr. Chairman: Fine, would you do that, and then I will give Staff Superintendent Garry an opportunity to respond. I will then recognize any other member that wishes to speak on the point of privilege; then we will return to your questioning since you are first on the list.

Mr. Mackenzie: In dealing with the numbers, as I said we went over the tapes very carefully, then did a count from what you can see, which may not be total, in the police pictures themselves; talked to the people that came up on the bus; and to George Labute, whom I have known for some 25 years personally, and he is a very responsible person.

We are willing to give you two more than you indicated, Superintendent Garry. There were 54 on the bus that came up from Windsor. We thought there were 16 or 17, not 14 of the local girls plus two men, so we may even give you two more there; but there were less than 75, considerably less than 75, on that line on that morning.

The testimony is clear, and it was the basis for a large part of the reasoning for your having on that occasion—the second, or third possibly, second for sure—riot-equipped police out there, which is very intimidating.

Your figures were totally inaccurate, as my colleague says.

Mr. Chairman: Any other comments on the point of privilege before I allow Staff Superintendent Garry to respond?

Mr. Lewis: Mr. Chairman, having got it off my chest, I want to apologize for being so harsh; but I want to say, Mr. Chairman, as a member of the Legislature, that I don't know what to believe now.

I heard testimony on Friday, on which everything was based, from a man who was there on the scene. He gave the orders to move in on the crowd, he witnessed the number of people; and in direct answers to questions he was completely wrong. I don't know, now, how to measure it. I am sorry if my language was harsh.

Mr. Chairman: For the information of the members of the committee, Hansard informed me, through the minister, without any direct communication to me or the members of the committee, that they were unable to respond to our request that they very expeditiously produce the Hansard Friday's session, so we do not have that for your use today.

**Mr. Lewis:** Well everyone was here.

**Mr. Chairman:** Staff Superintendent Garry.

**Mr. Garry:** I can only repeat what I said before. I was quoting figures from notes that I had made on the 25th, as well as notes that I had made on the 24th.

I had no reason, in my mind, to mislead the committee. I have never had my honesty questioned before and I regret that Mr. Lewis feels I intentionally misled him.

**Mr. Lewis:** I didn't say that. It may have been inadvertent, but the figures were wrong.

**Mr. Garry:** I am not denying that now.

**Mr. Chairman:** For the purposes of the record, Mr. Lewis didn't say that you intentionally misled the committee.

**Mr. Handleman:** He sure made it sound like it.

**Mr. Lewis:** I agree. I have cast suspicion on the rest of the evidence, because how can I do otherwise, Sidney Handleman?

**Mr. Pope:** You would make a good lawyer.

**Mr. Chairman:** Carry on, superintendent.

**Mr. Garry:** In my mind, I had no motive or objective for misleading the committee.

The basis for deploying the crowd control unit on the morning of May 24 was based on the actual number of picketers who were at the rear of the plant that morning. This, according to our estimates, indicated the group that had arrived was possibly 64, plus 14 females who were local.

I am not indicating there were actually that many people on the actual picket line who were circling in front of the doors to the plant that morning.

Our crowd control unit, as I said before, consisted of 32 males and 14 females. The unit I deployed that morning to open the picket line was approximately 46 police officers.

Once again, I say that if the figures I quoted did mislead the committee, I would like to state now that it was not intentional. I had no motive for misleading the committee. That is about all I have to say on the matter, Mr. Chairman.

**Mr. Lewis:** Mr. Chairman: I raise the point of privilege. I accept that, Superintendent Garry.

Can you tell me something? Why, as you sat here and answered the questions on Friday, which after all were fairly pointed, did it not occur to you that what you had seen on that morning was rather different from what you were reporting to the committee? Did that not occur to you when you were giving your testimony? It went on for some minutes.

**Mr. Garry:** I appreciate that fact, Mr. Lewis, but during that week we had three consecutive demonstrations. We had three consecutive demonstrations running day after day and I had the notes; but as I said, I was just reading the figures from May 25 rather than May 24.

I might indicate it was drawn to my attention. I examined my notes after the committee had adjourned and I realized I had been quoting the figures from May 25 rather than May 24. I am not denying they were inaccurate.

**Mr. Chairman:** Anyone else on that point of privilege? Fine. Would you continue, Mr. Mackenzie.

**Mr. Mackenzie:** It flows from that. I want to point out that in that confrontation on Friday morning, ruled out of order—probably on the basis that there hadn't been a fair distribution of time, there was an effort by Michael Cassidy, the leader of our party, to question the figures clearly.

It was not just what your judgement was on that occasion, Superintendent Garry. He tried a number of times to show this. I believe he had our past Solicitor General (Mr. MacBeth) a little bit upset by trying to get in with his question, to show this picture and move around on it.

That picture, including reporters and people on the sidelines, was taken just less than 30 seconds, probably, as near as we can time it, from the time you gave the order. It shows 61 people, about 45 or 49 of whom were actually in front of the loading gate in that particular plant. We can verify all of the local people in the picture. In no way could anybody with any experience or knowledge indicate there were anywhere near 100, let alone 195 people when that order was given.

I have to put it in context. Your evidence also originally was 30 and 12, I thought, though it may have been 14. It's now 32 and 14. The figure we had of riot control police was 44. I question whether it was 42 or 44. You now tell us there were 46 in riot gear there.

Once again, there is some discrepancy in the two additional standby figures you gave us. There were somewhere between 95 and 99 additional police on standby at one location or another. We are dealing with some 140 police for this kind of a crowd or in that neighbourhood, but it's really the 46 in the riot gear that get to me.

In defending the action to use the riot control police on that day, one of the points you made, and made very strongly, was that

there was some truculence on the line, there was some drinking and drunkenness and it was a touchy situation. Or course, if there are 200 people it can be much touchier. The evidence that I have also been able to get from careful checking with both the local people and my friend, George Labute, and some of the boys from Windsor, is that probably it was one of the quietest groups that was up. Certainly you will have no problem verifying the responsibility of one George Labute from the Windsor local. That was not a cantankerous group. They did not even hassle the police the way the Budd boys or some of the Talbotville boys or some other boys had done on previous occasions, not to the same extent whatsoever. You had not only a small group, but a non-violent, quiet, controlled group on the scene that particular day.

I am wondering, Superintendent Garry, if you remember your words. Unfortunately, the attitude now of whether or not the police are there to help them at all is one of the things we are dealing with in this situation. Do you remember the order you gave to the men when they moved out from approximately 40 feet away from the line? I would like to know if there is a difference between your opinion and the opinion of at least two of the females who are here who heard you. Can you remember your order to the men?

**Mr. Garry:** My orders, that were relayed, were to advance and open the picket line to permit the workers to enter the plant.

**Mr. Mackenzie:** I would like to tell you what the other side heard.

**Mr. Garry:** Yes.

**Mr. Mackenzie:** It was "get them." When one of the officers, the one with the walkie-talkie on the right hand side in front, turned around as though to question the order, you said: "You heard my orders." The other thing you said in the testimony, very clearly, was that they walked into the line to clear it. They went in at double; they went in on the run. When you get some 50 people or some 40 people and 46 riot control police with batons coming in at the run from that position, you can tell me also what kind of reaction you get from that crowd.

If that's not true, I would like it as testimony here today, but that was what was clearly heard on that line. That's clearly what was indicated by all of them, that what happened was they came in at the run, not at the walk.

**Mr. Chairman:** Mr. Garry.

**Mr. Garry:** As far as I am concerned, the crowd control unit advanced on the march.

**Mr. Mackenzie:** What do you mean by the march then?

**Mr. Garry:** Marching, not double time. They were marching. I did not issue the order to go get them. I deny that irrevocably. I deny that. I did not issue the order to go and get them. My instructions were to open the picket line to allow the employees to enter the plant.

**Mr. Mackenzie:** So once again in this case—

**Mr. Garry:** I would like to point out that there is no vindictiveness whatsoever on my part towards the people who are on the picket line at Fleck as far as I am concerned in the discharge of my duties.

**Mr. Mackenzie:** Why do you think this would be what they perceive as having heard, clearly?

**Mr. Garry:** Someone may have shouted it. It may have been a police officer or it may have been someone else; but I definitely say that the words did not come out of my mouth. I'll stand on that statement.

**Mr. Mackenzie:** Can you give us some indication as to why some of your men, when this charge and incident were over, were perceived to be pretty shaken themselves?

**Mr. Garry:** I wasn't discussing the incident that closely with any of the people to perceive that they were shaken. I was in the area and no one came to me and indicated they were upset over the matter as far as our people were concerned.

**Mr. Mackenzie:** Can I ask you what are the regulations, or are there any regulations, concerning the use of riot gear and batons? Do any exist such as I understand exist for Mace or service revolvers? Are there any particular regulations in terms of the riot gear?

**Mr. Garry:** There are in-service training instructions issued with respect to the use of crowd control equipment. I don't have a copy of them at hand at the moment, but there are instructions on their proper use.

[10:45]

**Mr. Mackenzie:** Could those be filed? I believe that's really been asked for before in the House, if I'm not mistaken, Mr. Minister.

**Hon. Mr. Kerr:** What was asked for, was the manual issued in respect to any instructions prior to a strike.



**Mr. Mackenzie:** There are no particular regulations in terms of the use of the 36-inch billies or the riot control equipment.

**Mr. Garry:** I repeat, there is a crowd control instruction booklet that indicates the proper use of crowd control equipment. I can't produce it at the moment. I don't have it with me. But there are instructions on the use of the equipment.

**Mr. Mackenzie:** The decision that morning, based obviously now on completely false information, to deploy the riot police—was that yours and yours alone?

**Mr. Garry:** Yes, it was.

**Mr. Mackenzie:** You did not check that with anybody else in authority?

**Mr. Garry:** No, I did not. I did not check that with anyone else.

**Mr. Mackenzie:** So it was your decision to put the 46 riot control police out facing this group of picketers?

**Mr. Garry:** It was.

**Mr. Mackenzie:** Could you explain to us again how they held the clubs? You did briefly last Wednesday. I think you used this kind of a description.

**Mr. Garry:** As I saw them advancing on the picket line, they were holding their clubs, one hand grasping one end of the club, the other hand grasping the other, holding it in front of them.

**Mr. Mackenzie:** Would part of the instructions be to allow the use of a side jab with that club?

**Mr. Garry:** I don't recall ever reading that in the instructions on crowd control use.

**Mr. M. Davidson:** Is that part of the training?

**Mr. Garry:** Not to my knowledge. I don't have a manual with me, so I'm just quoting from memory.

**Mr. Mackenzie:** Just to go back one step before I continue here. You made the observation that there were several people behind the loading dock or out of the scene. How many, in your opinion, were actually in front of the dock when the police moved in? Would you care to give an estimate or do you dispute the figure of probably less than 50 actually there when the police moved in?

**Hon. Mr. Kerr:** Just to clarify, Mr. Mackenzie, we're indicating now a total of 71 picketers on the 24th. Is that right?

**Mr. Lewis:** No.

**Mr. Mackenzie:** Probably less, but not all of them were in front of the loading dock when the police moved in.

**Mr. Lewis:** Superintendent Garry said there were 69 in total. How many were in front of the loading dock?

**Mr. Garry:** We have photos here. I don't have an accurate count of the actual number of people in front of the dock, but the photos likely would correspond somewhat with what you have, Mr. Mackenzie.

**Mr. Mackenzie:** Then approximately 49 or 50 were in front of the actual loading dock?

**Mr. Garry:** That's right.

**Mr. Lewis:** You had one riot policeman for every picketer. Do you really think in Ontario that makes sense? My God! The way the police handle it in Hamilton or in Burlington is quite different from the OPP. It's a much more civilized and reasonable way. Imagine having one riot policeman for each picketer outside the plant—women picketers. Really, Superintendent Garry, this is Ontario.

**Hon. Mr. Kerr:** Mr. Chairman, in fairness you must remember the number of police personnel at the plant or in the area of the plant that morning was based on some previous intelligence and information.

**Mr. Lewis:** Yes, but he gave the orders to move in, to charge.

**Mr. Mackenzie:** I'd go in on that, if I can, Mr. Minister, because there is some additional information there that I think is worth bringing out. I'd like to know, in view of the defence made that any person hurt was hurt inadvertently, in spite of the charges which we probably can't discuss, if the officers were only holding the sticks at each end, how then was one of the females on the line hit this way, with the butt end of the stick between the breast and the stomach, hit hard enough to cause not only injury, but a loss of bladder control right on the spot. It was her screams that caused another one of the women to step out of the line to try and get Corporal Hanes, whom they knew, to get an identification on the officer that hit the woman. Then she herself was hit twice on the arms with the baton. There was a further one as well and I'm sure you're aware of it. How could this be done? That's why I was asking about the side jab of the batons and the small number of women and men that were tackled that day.

I just want it heard because all of them are here today.

**Mr. Garry:** I appreciate that. I recognize them all. I've been with them since March 7. I know almost all of them by their first names. I mentioned the other day that in the pushing and shoving and scuffling match, there is always a possibility that a baton is

going to come in contact with one of the demonstrators. I believe I said at that time I would be surprised if one of our officers intentionally struck one of the women with a blow with the riot baton. And I stand on that again. I stand with that statement.

**Mr. MacKenzie:** What level do you normally carry those batons when you move in, waist-high, chest-high?

**Mr. Garry:** Usually it is between the waist and the chest.

**Mr. MacKenzie:** In terms of your intelligence as to the numbers that will be down, I think it was Monday of this week, some 87 or 88 people came in from Brampton in two buses. An OPP cruiser was on the spot and counted them as they boarded the buses in Brampton. Would that information not be passed on to you, at least two and a half or three hours, given the time, before they would arrive?

I am getting back once again to the 54, you say 52—we'll give you two on that—54 that my information clearly says came up from Windsor on the buses. Would you not have known?

**Mr. Garry:** We don't always have a specific count. Sometimes we are operating on intelligence based on the number of vehicles to expect.

**Mr. MacKenzie:** We heard about the advance intelligence you had. Did you or did you not have any kind of a count of the number coming up from Windsor that day?

**Mr. Garry:** No, my intelligence was, as I stated, two 60-passenger buses.

**Mr. MacKenzie:** So it was strictly a guesstimate. It was not nearly as accurate as, for example, this Monday, the load from Brampton where it was perceived they were being counted as they boarded the buses.

**Mr. Garry:** What would be the point in me discussing with the bus driver an estimate on the number of passengers that they brought up from Windsor that morning?

**Mr. Renwick:** Could I just interject for a moment? You told us Friday that your intelligence report was that there were 200 coming from Windsor. Did you have a second report?

**Mr. Chairman:** Mr. Taylor has a point of order. Mr. Renwick is asking questions. I have nobody from your party that is on my list that has indicated any interest in asking questions.

**Mr. Renwick:** I have only two and they deal with the one question that is being asked. There is a hell of a lot in terms of credibility that is at stake here.

**Mr. Chairman:** I will just put you on the list here.

**Mr. G. Taylor:** I don't want to ask any questions, I am just having difficulty following—

**Mr. Renwick:** Is this a point of order or are you upset with what we are doing?

**Mr. G. Taylor:** This is a point of order.

**Mr. Renwick:** I didn't get the point of order.

**Mr. Chairman:** We did not recognize your point of order.

**Mr. Renwick:** Perhaps you don't communicate in your caucus; we sometimes do in ours.

**Mr. MacBeth:** Generally, it is reasonable for a person undergoing cross-examination, as certainly this is, to have one person examining at a time, not three or four different people interject as has been going on here.

**Mr. Renwick:** I said I would let Mr. MacKenzie carry on quite happily—

**Mr. MacBeth:** I admit it hasn't been going on that way very badly today. It certainly did last Friday when the witness was being peppered by four or five people from at least three different directions at the same time.

I think in fairness to the witness, it would be wise to let one person examine at a time, then go on to the next person—this gives a little more chance to have you question what he said. On Friday, sometimes I wondered if he could get his statements as straight as he did with questions running from all directions. I am not surprised that his answers may have been confused.

Now if one of the members would question him at a time, then move on for the next, I think it would be a little more fair to the witness and you might get a little more accuracy in your statements as well.

**Mr. Chairman:** I don't want to prolong it, Mr. MacBeth, but I think you will agree that this is not a traditional or typical estimates session.

**Mr. MacBeth:** But that doesn't mean it shouldn't be carried on in a reasonable way.

**Mr. Chairman:** Order please. When I am trying to give you an answer, I would appreciate you at least listening to my reply to your point of order.

Furthermore, this is really a form of inquiry and from your experience, I am sure, on many, many more select committees than I have been on, you will agree that supplementary questions, with the consent of the person who has the floor, are quite useful

often in eliciting information. That is all that Mr. Renwick is doing at the moment.

**Mr. MacBeth:** As I say, I wasn't objecting to Mr. Renwick's question this morning because he did ask, but the other day I certainly had some objections and I hope that we wouldn't descend to that today, sir.

**Mr. Mackenzie:** To finalize, in terms of the action that day, Superintendent Garry, you'll forgive me if I can't come to any other conclusion than it was a clear decision taken by you that somebody was going to be taught a lesson that day. It wasn't based on the intelligence you didn't have, or on the numbers there, or on 140 to 60-some people present. It wasn't based on the intelligence reports or the fear of the numbers, and it was not the rowdiness of that particular group. It was one of the more controlled and quiet groups with one of the more responsible people in charge of it. It sure as blazes wasn't based on your intelligence, or it was totally inaccurate if that's to what the intelligence led you.

I'll finish with my questions, Mr. Chairman. The other thing I wanted to deal with briefly is that we also had a lot of comment and evidence about the threats made to people, and about the fear, about the difficulty of protecting people. It was alluded to again today by the commissioner.

I wonder, Superintendent Garry, if there have also been fairly large numbers of complaints from the strikers over threats against them and their person, over threatening phone calls, over a fear or intimidation campaign, if you like, against the strikers as well as the complaints we have heard reported in terms of the people who are working in the plant or from the local residents.

Have you had any complaints or any calls at all?

**Mr. Garry:** Yes. As I stated previously, most of my time is actually spent on the picket line. I've been approached on three occasions personally on the picket line with respect to the manner in which some of the vehicles are being driven through the picket line, which is somewhat erratically. When we are able to identify the driver of the vehicle, we always caution him and ask him to slow down and drive more slowly through the picket line. I believe Monday morning was the last morning I was approached with respect to a complaint by the picketers.

**Mr. Mackenzie:** Is this where the bus driver chased the women on the line with a two-by-four?

**Mr. Garry:** No. This complaint was that

a picketer understood some of the workers were carrying weapons on the bus.

**Mr. Mackenzie:** Were you aware of the complaint, this Monday, about the picketers being chased by the driver of the bus with a two-by-four?

**Mr. Garry:** No, I didn't hear of that one.

**Mr. Mackenzie:** The police were contacted about that at the scene, I know. Are you aware of personal threats, such as have been alleged to have been made to residents in the area, also being made to strikers? Are you aware of the strikers complaining to the police about harassing and threatening phone calls? One of the standard answers they've been getting is it would probably take 10 or 12 days to get a phone tap on to try to locate the people and, as a result, no action is taken? Have you had those kinds of complaints from the people who are striking as well?

**Mr. Garry:** Those answers haven't been coming from me. I did have one complaint from Mrs. Little. She fell down her front steps one morning because she felt that someone had placed a piece of rope across the steps. She had fallen down and injured herself.

**Mr. Mackenzie:** Who might have given that kind of response to complaints? Would you be the only one in charge or would somebody else there be responding to threats against the strikers as well as against the others?

**Mr. Garry:** The complaints phoned into the detachment might be responded to by the detachment. As I say, I was actually on the picket line most of the time.

**Mr. Mackenzie:** Do you feel there is any incentive whatsoever for a company, Turner and Fleck, to bargain in good faith at all when they're assured of this kind of protection by vast numbers of police?

**Mr. Garry:** Mr. Chairman, I think that is an unfair question.

**Mr. MacBeth:** Mr. Chairman, I would question the putting—

**Mr. Mackenzie:** Let me change something then. I submit to you, what is the perception of the people, some 70 women, who are trying to get a first agreement there? Consider the things they have been up against from day one, such as the show of force by the riot police without provocation last Wednesday. The comment came from Sergeant Glover that there is no doubt that barring the individual in question from the strike site has its effects. Consider they were dealing with the arrest of their leadership early in the strike.

Consider the comments made that have been sworn to in the affidavits about; "Why



did you take the job here? Why don't you go somewhere else if you don't like the wages?" and, "What is going on?" by one of the constables. What about Constable Lewis and Sergeant Glover's comments before the strike started that the police would not be sent in until there was an incident on the picket line. Yet exactly one week later—seven days—we had them in for the famous, or infamous, speech to the girls in the plant. They were on the scene the very next morning, not after any incident, but before anything was foreseen at all.

[11:00]

How do you see that as playing an impartial role, as we've heard several times from the police in this dispute, and how do you think the workers that are involved perceive it? They don't perceive any protection for any of their problems whatsoever.

**Mr. Garry:** My only response to that would be that in my experience since I was assigned to strike duty at Fleck Manufacturing we have had no problems dealing with the local picketers. I've never had a problem with local picketers since the day I was assigned to the strike at the Fleck plant. It's only when we have larger numbers coming in from outside areas.

**Mr. Chairman:** Would Assistant Commissioner Lidstone care to answer that question also? It might be advantageous to the committee members.

**Mr. Lidstone:** Would you be kind enough to repeat exactly what you wanted me to answer so that I'm sure I'm answering it correctly?

**Mr. Mackenzie:** I'm wondering about your response in view of the comments that have been made, such as, "I was told by Sergeant Glover and Bill Lewis that the police would not be brought in until there was an incident or trouble on the picket line." Then there was the comment by Sergeant Glover, when the trouble had started, when he was asked what he would do if his wife only took home \$100 a week and worked this way. He said: "If you don't like it, why don't you get another job? You knew what the wages were when you started here." Then there was the comment by Mr. Turner to the workers that Constable McIntyre and the police would be on the picket line first thing in the morning if they went out on strike. Then there were the lecture that was held in the place, the trouble getting a hearing to complaints of threats and intimidation against the strikers in the plant and the unbelievable show of force on Wednesday against them. Where is the perception, which I think is at least

useful in our society, that you are there in an impartial role which we have heard is the role the OPP are to play? How can you expect that kind of a perception by the workers on that picket line?

**Mr. Lidstone:** I have to go back to answer your question. I just can't give a yes or no answer. My assignment in the first instance on March 10 was to go to Exeter at the directions of the commissioner. Knowing the concerns of the ministry, I knew their communications had not been what I thought they should have been. There were conflicting reports. We were getting reports from our people. We were reading press reports which didn't seem to be about the same incident at all.

I proceeded to Exeter on Friday, March 10. I met with Sergeant Glover, Staff Superintendent Garry and eventually spoke briefly to Mr. Turner. That was the first meeting I had with Mr. Turner. My reason for talking to Mr. Turner at that point was very specific. I asked him if he would consent to have two of our investigators interview him in detail because I was concerned, as I say, with press reports saying one thing and with conflicting press reports. That was my first meeting with Mr. Turner.

By this point, we had already gone past the fateful March 3 and the incidents on March 6 and 7. Anything that I was hearing was second-hand. I appreciate that a number of the things that you are referring to here are also in the application to prosecute before the Ontario Labour Relations Board. I appreciate that some of them have been amended. I'm not totally sure, to give you a fair answer, that some of the original motion or parts of the original motion were not amended because they found they had confused Sergeant Glover with another officer who has been identified. I believe the representative of the UAW, Mr. MacLean, has made a motion in front of the labour relations board which was accepted that certain paragraphs be struck and other ones be changed to indicate the proper people.

To comment on March 3, I find myself in that position where the people that were on strike have testified and are in the middle of their testimony. They are testifying under oath and subject to cross-examination.

**Mr. Mackenzie:** I wasn't dealing with the details of that. I was simply pointing out the atmosphere that you have built there with the use of the police.

**Mr. Lidstone:** I think it would be most unfair for me to use this forum to put for-

ward what our position might well be and only be second hearsay, and not being subject to cross-examination by Mr. MacLean and those people who are representing the union, I think it would be an unfair question to answer in those particular details.

When we move in to the rest of my involvement I am quite prepared to go over day by day the reason for decisions that were made. And I made a lot of the decisions up to April 13 when I directed that the vast majority of our people be returned; and I made a further decision in the latter part of April that we reduce our strength almost totally. We left seven or eight people that were available and deployed no one at all at the scene.

**Mr. Mackenzie:** Are you aware of the number of police that were on the scene this morning? Do you have that information?

**Mr. Lidstone:** Yes, I do, sir.

**Mr. Chairman:** Mr. Mackenzie, that sounds to me very much like a new line of questioning, so I am going to ask you to give the floor to Mr. MacBeth.

**Mr. MacBeth:** I just wanted to get one matter straight. You had some pictures on Friday showing a loading dock and various picketers standing about that loading dock. On whose property were the picketers standing at that time? Is that some of the property that was rented by Fleck or were they on public property.

**Mr. Lidstone:** It is my understanding and I believe it to be true, though I haven't seen a survey, that in fact it is the property leased by Fleck Manufacturing from the Ontario Development Corporation. I have had three more copies prepared for this committee of the picture that Mr. Mackenzie was referring to. I am going to have them mounted if the committee wishes to examine them.

**Mr. MacBeth:** Well, is that usual that the picketers should be on the property of the company being picketed? I am not aware of the setup of the buildings there.

**Mr. Lidstone:** You have a most unusual situation in the whole labour dispute. First of all, it is not a normal industrial setting where there are boundary lines, where there are fences. Nothing is fenced. To my knowledge there is no indication where Fleck property or the property that Fleck has leased ends and where the property of the next place, Diment, the plastic drainpipe manufacturers, starts, or where Tuckey Beverages starts, and so on through all these many hangars. There is nothing other than directions of the picket captains and police officers,

if they are there, to stop anybody from going anywhere outside the buildings.

**Mr. MacBeth:** That makes it more difficult not only for the picketers I suppose, but for the police as well, to say where they are lawfully allowed to picket.

**Mr. Lidstone:** Yes, it is extremely difficult. It's been part of the problem on a day-to-day basis to try to decide where to deploy people. As you may be aware—I certainly was aware—there was constant criticism from the media that we were intimidating people. I went to great lengths to refuse to talk with the media about the number of police officers available on a day-to-day basis, because I said I saw no difference with saying we had 60 police officers in reserve as having them right there. The intimidation is still there. So it's been this problem right from the beginning of how to deploy your people, keep them out of the way, because we recognize that those people have a lawful right to picket. They certainly have a legal strike. And we are not in disagreement on that at all.

**Mr. MacBeth:** It would be hard for them to picket the Fleck property—I don't know whether it is leased or loaned; I assume it is leased—without being on private property of some sort.

**Mr. Lidstone:** Yes, or on the public road, I mean there are only two situations as I understand it there. Canada Avenue runs from county road 21 through to the end of the row of hangars. Canada Avenue is a public road owned by the township or title is held by the township of Stephen. The only two places that they can assemble is either on the public road or adjacent to it, or on the property of some of the plants.

**Mr. MacBeth:** But that picture that we were counting the numbers in, I gather that you are saying most of the picketers were probably on Fleck property at that time?

**Mr. Lidstone:** I would assume they are. I also got a bit of a shock when I see great piles of flexible drainage tile very, very close to the area which I had assumed was tarmac—they refer to it as tarmac—rented or leased from Ontario Development Corporation and I see another manufacturer piling material there. So I don't really know where the line starts and stops quite frankly.

**Mr. MacBeth:** I think Staff Superintendent Garry was going to indicate that maybe your statement was not completely correct.

**Mr. Garry:** No, it wasn't that. It's just that as Mr. Lidstone says it is a little difficult to define lines when there is no industrial fencing around an industrial complex. But one of

our understandings is that the Fleck property really ends right at the loading gate at the back of the plant. The loading gate is almost flush with the property line there—the leased property.

**Mr. MacBeth:** Thank you, Mr. Chairman.

**Mr. Chairman:** I have no one on my list from the Liberal Party so I will go over to Mr. Renwick.

**Mr. Renwick:** I want to pick up on the points that Mr. MacBeth made because those are the very areas that I wanted to question you about, Staff Superintendent Garry or Assistant Commissioner Lidstone or Commissioner Graham. Perhaps Commissioner Graham first of all.

Have you finished your report or your investigation of what took place on Friday, March 3, in the discussions or in the meeting?

**Mr. Graham:** On Friday, March 3? No, I have talked to the three officers who were involved, Sergeant Glover, Constable McIntyre and Corporal Freeth, and with their counsel, prior to going to the Ontario Labour Relations Board.

**Mr. Renwick:** I only want to touch upon one matter which has no bearing whatsoever on the hearings at the labour relations board that I know of. Do you have any knowledge as to who gave the instructions that the only public property was Canada Avenue?

**Mr. Graham:** I have no knowledge, no.

**Mr. Renwick:** All right. Let me ask Commissioner Lidstone. A good deal of your testimony was that a substantial amount of the overall tension in the community was because the picket was at the gateway to the industrial park and that therefore all the persons using that main entranceway, whether they had any business with Fleck or not, were subject to either being stopped or interfered with in some way or other as they went about their own business. That's a fair summation of what you said, is that right?

**Mr. Lidstone:** Yes. But I did not state that this was on a daily basis.

**Mr. Renwick:** No.

**Mr. Lidstone:** As you will recall it was on an occasional basis. This is why as far as I was concerned the problem was a difficult one, in that it did take place at the entrance and other people were being harassed.

**Mr. Renwick:** All right. You knew that the whole of the park is owned by the Ontario government through the Ontario Development Corporation.

**Mr. Lidstone:** Yes, sir.

**Mr. Renwick:** Did you at any time make any investigations to find out what portions

of that park are public property in the sense that they were available to the pickets?

**Mr. Lidstone:** Not personally.

**Mr. Renwick:** Is it not your understanding that the reason the picket was a quarter of a mile away from the plant at the main gate was because the only public property the picket had been told they could use was Canada Avenue, and that meant they could picket either at the front entrance to the Fleck plant or at the main gate? If they picketed at the front entrance of the plant they couldn't possibly in any way communicate with the people who might come in onto the old runway and go up to the back of the plant?

**Mr. Lidstone:** I think that's a number of questions you've linked together, sir. My reading of the statements and the investigation of March 3 was that they were in fact advised that Canada Avenue was the only township or public road.

**Mr. Renwick:** So far as you can tell that was done at this meeting. Is that correct?

**Mr. Lidstone:** That's my understanding, sir. I think the other matter that you touched on is a totally different matter—that is the private roadway—it is not a public road—across the airfield.

**Mr. Renwick:** Could I come to that?

**Mr. Lidstone:** You did. Did you not want me to mention it now?

[11:15]

**Mr. Renwick:** Fine. You go ahead.

**Mr. Chairman:** Carry on please.

**Mr. Lidstone:** The position, as I understand it, of the Ontario Development Corporation is that anyone using that road without their specific direction and intention is illegal, is contrary to their agreement on the purchase. Whether it's under the Aeronautical Act or not, I don't know. My understanding is that unless they have specific permission people don't have the right to drive vehicles on the runway in the airport area.

I understand further that the only time it was used was on May 18. The only time I ever talked to Mr. Berlet was on the telephone. But according to him and my information from the staff superintendent was that at 7 o'clock or thereabouts, when the staff superintendent had very few people on the site, he was advised they were going to make an entrance to the plant across the aerodrome property.

He advised them not to and they did it in any event. Mr. Berlet later that morning phoned and was most critical—sarcastic—with



me, as to our lack of appropriate action. At that point, when I was talking to him I wasn't aware they'd made this entrance. When I checked further I found that they had entered by a way I understand, though I haven't read the law, is improper. I understand it is contrary to the aeronautical or some similar regulations—they cannot have private vehicles on the runway.

That's what I assume you were alluding to. Am I correct in that, sir?

**Mr. Renwick:** I want to establish two points. One is that no part of that runway is part of the property leased to the Fleck company.

**Mr. Lidstone:** No.

**Mr. Renwick:** All right.

**Mr. Lidstone:** No, it's not. As far I know. I'm not even sure if the tarmac is leased to them. But certainly the runway, the taxi strip, et cetera, are not their property, and they have no right to be on it, as far as I know.

**Mr. Renwick:** So was there any reason why the picket could not have been on the tarmac as well as on Canada Avenue in front of the plant? And could the picket not have operated in the normal fashion and not have to be stationed a quarter of a mile away?

**Mr. Lidstone:** I did not discuss this with the people from the union. Most of my discussion was to the effect that they did not go down to the area of the plant and have their picket line there.

**Mr. Renwick:** I will have one more crack at it: as far as you are concerned, the instructions to the picket, to the members of the local, that the only place they could picket was either the front of the Fleck plant or on Canada Avenue at the main gate, came from the meeting on Friday, March 3, at which officers of your force were present along with executive officer Grant Turner and others of the plant?

**Mr. Lidstone:** My understanding was that they were told Canada Avenue was a public road. The second part you have added about the only places they could picket, I am not sure that was part of the information. But they certainly were told that Canada Avenue was a public road. This had been checked apparently by the members with Stephen township prior to proceeding there.

**Mr. Renwick:** Regarding the next area I want to touch on I would appreciate the comments of the commissioner, the assistant commissioner and the staff superintendent. In all of the comments I have heard at the

hearing on Friday and today, and in all of the reports, particularly the reports of comments attributed to either yourself, Commissioner Graham, or to your officers by Julian Hayashi, who is a reporter with the London Free Press and has followed this matter through, in all of the conceptions of your duty as police officers, never on any occasion, have I seen a quotation or heard any of you state that the foundation and fundamentals of picketing in our society, a peaceful picketing for the purpose of communication, is a right which a person has and which you are bound to protect. Why is it I have never heard any statement from any of your officers that that essential right is equal to, and in the judgement of some overrides, this duty you have to protect property?

**Mr. Graham:** Mr. Chairman and Mr. Renwick, I don't recall ever having talked to Mr. Hayashi. What was I alleged to have been quoted as saying, sir?

**Mr. Renwick:** No, no, I'm not implying anything. I am just reading from comments which he had made, I'm sorry, I didn't mean to involve Mr. Hayashi. What you basically say is the role of the police is to be impartial.

**Mr. Graham:** That's right.

**Mr. Renwick:** I happen to believe you think you are impartial. What my colleagues and myself have been trying to say is that somehow or other, you are not impartial because the people you are dealing with do not perceive you to be impartial. Your statements, commissioner, seem to say you have an obligation to protect life, persons and property, with which every one agrees, and you have an obligation to permit access to that plant. But I have never heard you say on any occasion, "We also have an obligation to protect the right of the pickets on the line to picket and to communicate."

**Mr. Graham:** I have said many times that the picketers have a right to peaceful, orderly picketing and to talk to the workers who want to go to work, but in a peaceful fashion. The newspaper reporters don't usually mention that.

**Mr. Renwick:** Mr. Graham, could I ask you the question I asked the Solicitor General in the House? How does a picket communicate with people riding through on a bus?

**Mr. Graham:** I suppose they would ask the bus driver to open the door and step on and talk to them. I don't now.

**Mr. Renwick:** Let me perhaps be overly legalistic about it. You perceive your job is

to permit a bus with usually 35, 40 or 45 people on it to go through and have access to the plant?

**Mr. Graham:** Yes. I don't think a bus was used in the first instance.

**Mr. Renwick:** Cars or buses. In other words, people in vehicles. I have never heard of any action by the police which would say to the people involved, either management or those on the bus, or others, we have an equal duty to protect the right of the people on the picket line to communicate with you.

We're talking about a real world. It's not an afternoon tea party and everybody knows that. There is tension and there are verbal communications that may not be suitable for the parlour. Do you understand and are you prepared to instruct your force that people have an absolute right to engage in a lawful peaceful picket if it is for the purpose of communication?

**Mr. Graham:** I am prepared to do that and I am quite confident that Assistant Commissioner Lidstone has already done that to the persons who were on strike duty in our force. I think he will be able to answer that in a moment. Regarding people going through the picket lines in automobiles, it had a sort of dampening effect that they would stop and reason with the picketers. There were occasions when workers going to other plants could have been punched while we sat in the car.

**Mr. Renwick:** Which comes first? Neither you nor I can understand—

**Mr. Handleman:** May I ask a supplementary?

**Mr. McClellan:** You don't have the floor. Why don't you wait your turn?

**Mr. Handleman:** The chairman said supplementaries are allowed.

**Mr. Renwick:** Mr. Handleman, you must remember the last time I interjected and was upset, I asked my colleague whether or not I could ask a supplementary question and he said yes.

**Mr. Handleman:** Mr. Chairman, may I ask a supplementary?

**Mr. Renwick:** When I ask one further question, you may ask a supplementary question.

I said no one knows which comes first. I don't say to you that I have a great experience with picket lines. I have been on some of them but never as an active member of a trade union.

I have been at the Tilco Plastics strike and I was at the Proctor-Silex one. What is

happening at Fleck is an absolute duplication of what happened at each one of those. If the police conceive their duties to escort vehicles, usually buses and sometimes automobiles, through picket lines by the exclusion of any possible communication between those engaged in a lawful, peaceful picket and those whom they are escorting through the line, then it seems to me that there is a misconception of the police duty to provide that avenue of communication.

**Mr. Graham:** We are glad to provide that avenue of communication, provided it works. We got off to a bad start on March 6.

**Mr. Renwick:** I have never seen one in Ontario that hasn't been off to a bad start because you always use vehicles to transport people into the plants across the picket lines.

**Mr. Handleman:** Mr. Chairman, may I have a supplementary on the question of crossing the picket line? Mr. Commissioner, I understand you recognize the right of the picketers to communicate with those who wish to gain entry to the plant.

**Mr. Graham:** I certainly do.

**Mr. Handleman:** Do they communicate by means of signs on occasions?

**Mr. Graham:** The picketers?

**Mr. Handleman:** Yes.

**Mr. Graham:** Yes, sometimes they do and sometimes they use them as clubs.

**Mr. Handleman:** Are the signs visible to people? I am suggesting there may be some wording on the signs that are visible to the people inside the vehicles?

**Mr. Mackenzie:** Vehicles are used as clubs too occasionally.

**Mr. Graham:** Yes, that is true; they do.

**Mr. Handleman:** Again I speak as a neophyte in the whole idea of picket lines and vehicles, but surely there is a right on the part of the person inside the vehicle to go into the plant without being stopped presumably.

**Mr. Graham:** Definitely. There is a right, especially for people going to other plants, to go in unmolested. That has been the case right from the inception of the strike.

**Mr. Handleman:** Would you ever entertain under any circumstances the suggestion that vehicles be stopped so that the picketers could communicate with them verbally? I am really trying to understand the denial of the right to communicate that is being implied by the questions.

**Mr. Renwick:** You really have trouble, don't you?

**Mr. Handleman:** I am merely suggesting that if I were in a vehicle and wanted to communicate with the picketers, I would voluntarily stop and talk to them. Would you suggest that I should be stopped so that I would have to listen?

**Mr. Graham:** No, I wouldn't suggest that.

**Mr. Renwick:** I want to pick that up again. You don't agree with me that peaceful picketing is for the purpose of communication?

**Mr. Graham:** Yes, I do agree with that.

**Mr. Renwick:** How does the communication take place?

**Mr. Graham:** By talking and by signs and so on.

**Mr. Renwick:** Let me move to one other area. I want to ask Assistant Commissioner Lidstone a question. At the hearing on Friday, I was very much concerned about the wide-ranging nature of your comments about the threats to life that were taking place on the site.

I am not asking you to tell me who the people were. I am asking if you have any information of any kind that would indicate the source of any of those threats.

**Mr. Lidstone:** Yes, sir.

**Mr. Renwick:** Are they people in the area or have you taken steps to charge anyone? [11:30]

**Mr. Lidstone:** Yes, sir, there has been one charge laid, and a second person was not identified. I stated that not only to the hearing but I stated afterwards that the people were not Fleck employees who were threatening other Fleck employees. That was not the case and that was not the matter to which I was alluding.

Have you finished with that?

**Mr. Renwick:** Yes.

**Mr. Lidstone:** There is one thing — you touched on a very sore spot with me and that was the question you asked the commissioner about communicating. This has been the most frustrating experience I have ever had. I talked to the press on a thing that was being recorded, about the legal right to strike; the problems with the strike; where the picket lines were causing the problems; and the other people involved. I haven't dwelt on the people attempting to get into the plant so much as the other people, and it never gets reported.

I find it extremely frustrating.

**Mr. Mackenzie:** Join the club.

**Mr. Lewis:** You know how journalists are.

**Mr. Lidstone:** It is a most frustrating experience, to think you have a message and you are trying to get that message across and it doesn't get across. It doesn't get reported. They seem to ignore the point I am making; I don't know why I find it most frustrating.

Originally, on the strike I gave a direction. It was carried out. I don't know if it is still being carried out. It was carried out for a long time. Our people, when they were going to the Huron Park area, were to be reminded they were impartial. There were two sides and we were caught in the centre.

Furthermore, when we had a large number of our people gathered together heading into April 12, I felt they should have further training. We got them together to learn to control themselves. Part of their crowd control is controlling themselves.

On that occasion and on every occasion, I gathered the people together and I talked to our people. I made the point that I have felt right from the beginning, the vast majority of those people, even those outsiders who appear to cause the problem, are family people with wives and children. They have a mortgage. They are there because they think they should be there, or because somebody has told them to be there. They are not to get into altercations or arguments. We are not disputing the rights and wrongs of either group, we are there to try to keep them apart.

It is the most frustrating situation to try to communicate this to the public. It hasn't been communicated, sir. I suggest to you you are quite right, you have not read it, but it is not because I have not made that statement. I have made it time and time again.

Finally, I asked one reporter, "Is there some reason you don't publish this?" He smiled and said "Well, I will certainly make notes on it." The story appeared and it wasn't there. I have not talked to the gentleman from the London Free Press. I purposely stayed away from being interviewed by him. I read headlines "200 Police Charged 50 Strikers". That was the headline; later on I get into the hard news and it turns out it wasn't those numbers at all.

**Mr. Lewis:** Just like this morning here.

**Mr. Lidstone:** Well, it is frustrating.

**Mr. Lewis:** It is, very.

**Mr. Lidstone:** But it is there.

**Hon. Mr. Kerr:** Assistant Commissioner Lidstone, the officers who are on strike duty, are they aware of your in-service training manual? I notice here you have a section, "Conduct of Police at Strike Scenes."



I am just reading from one or two paragraphs. The first one says: "Prevent breach of the peace;" the second, "See that no person compels another to abstain from doing anything that he has a lawful right to do, or to do anything that he has a lawful right to abstain from doing. This protection is afforded to anyone who may be threatened or who is in fear. Keep an absolutely impartial attitude. Don't get into arguments with anybody. Don't have any feelings about the right or wrongs of the dispute. Don't fraternize with pickets on the line nor management inside. If you do, it leads to the appearance that you have chosen a side and will offend either one of the parties involved."

**Mr. Lidstone:** Yes.

**Hon. Mr. Kerr:** I think it is a little ironic, though, Mr. Renwick, that there has been some criticism about the meeting of March 3, which the police attended at the plant. I don't want to get into that because it is before the labour relations board, but certainly there is no argument that the reason they were attending was to inform the workers in the plant, based on the information that some workers were going on strike and some wanted to continue to work. So the information that is in this manual is the information as to the right to picket, the right to indicate why they are on picket and to communicate in some way with the workers in the plant.

I don't think there's any question, in view of the surrounding circumstances, that on the first day of the strike, I think it was March 6, there was a labour dispute and that there was a picket line there and why the picket line was there. I don't think there was any dispute or misunderstanding about that.

I appreciate your point about buses and cars going in, and communicating directly with the people in those vehicles. I don't know if you feel there could be a rational discussion by one of the picketers at the bus door with the people in there. I am not sure if, in fact, there was any discussion but I don't think that we were naive to think that there wasn't complete understanding and communication at one stage or another between all the employees in that plant.

**Mr. Renwick:** May I respond to your point? This point I want to make is that no one has any objection whatsoever, including the members of a local about to go on strike, if the OPP wishes to approach the local through its officers and there's agreement to have that kind of communication.

In this case it was fundamentally wrong that it took place on the company's property

and it took place during working hours, when the first shift was called off by Grant Turner accompanied by a plainclothes police officer and an officer in uniform, and they were assembled I believe in the cafeteria, and a discussion took place. I am not going to get into that because we could bicker from now to doomsday as to what actually took place.

The second shift was called in in the afternoon and given some kind of a lecture by Grant Turner and company officials without any police officers available, so that from the point of view of the police the second shift didn't even have the opportunity to listen to the police officers while they got the lecture from the management.

There was great confusion as to whether or not it was a call from the plant that brought the police to the plant or whether or not Sergeant Glover went on his own initiative, as he at one point was reported as saying that, but fundamentally what has gone wrong in this strike happened on that Friday and that has bedevilled the relationship forever.

The result, Mr. Minister, and I wish you would impress this on your cabinet colleagues, particularly the Minister of Labour (B. Stephenson), that your perception of your impartiality and what has happened from it—and I sympathize with you because I don't think you intended it—is that what is a management-union dispute about collective bargaining and a first contract, all of which is very difficult, and I would guess Turner and the manager up there must be really chuckling, it's really now the local and the UAW against the OPP.

As long as this continues they are never going to settle that strike. There is no pressure on management to reach an agreement of any kind because you are the patsies in it and the confrontation is between the police and the UAW and neither the union wants it nor do you want it. I am saying to you in all bluntness, stop allowing that company and that management, however you do it, to make fools of the OPP and of the UAW, who are on lawful strike.

I want to make one further statement. I want a commitment from you that when you get the report from Commissioner Graham of exactly what happened on Friday, March 3, —and, incidentally, whether there were any previous visits by the police to the plant—when that report is done, and I hope this will be a warning that it be gone over with a fine-tooth comb before it's submitted, that it be a full, true, accurate account, that it carefully review the evidence on both sides, and if the minister has to set up some sepa-

rate body in order to get evidence as to what took place that that report be made and tabled in the Legislature. That's what's ruined this strike right from the very beginning.

**Mr. Chairman:** Any comments on those sentiments, Commissioner Graham?

**Mr. Graham:** I have already submitted a preliminary report on the events of March 3, and as I mentioned before, the matter is now in the hands of the counsel for the three men and the final report will be submitted later on.

**Mr. Lewis:** Mr. Chairman, I want to be very brief. I engaged in the questioning process on Friday. I wanted to follow, if I could, my colleague from Riverdale, who has, if he won't be offended, again, it seems to me, as he so often does in this Legislature, struck to the heart of it. What he says, I think, rings true, and because what he says rings so true, that is why we were so distraught in this caucus—and I suppose a lot of people were distraught, regardless of the partisanship—at the awful incident that took place and which was discussed here on Friday morning.

No one denies how difficult a labour dispute like this is. I want to tell you something else, which may be indiscreet of me, but I'll say it anyway. I don't agree with some of the people, including the senior labour leader in this province, Cliff Pilkey, when they say that non-striking workers should somehow not have access in law. The law stands that you have a right to go on strike. The law also says that those who choose not to go on strike have a right to continue working. That seems to me to be a legal and supportable proposition. I've never much liked the idea that that should be impeded, so with considerable regret I don't agree with Mr. Pilkey on that at all.

But that, because it is the law and because it has around it all of the tensions, makes the role of the police in this strike obviously a very critical one. You're dealing with the tensions of the legitimately striking workers, the people who legitimately have said they don't want to join and who stay in and work, and you're doing it in an atmosphere which is prejudiced at the outset from the early events of the strike, which my colleague Jim Renwick alluded to.

I don't know how much experience the OPP has had in dealing with some of these labour matters. I judge from your final two paragraphs, Commissioner Graham, that you personally have certainly been involved in many of them. But I want to tell you that I cannot conceive of a number of police

forces around the province, regional and metropolitan police forces, handling it in the way the OPP has handled it. I noticed—could I have that, Bob, for a moment, because it's instructive—in the Hamilton Spectator on Friday, May 26, at a labour dispute in Westinghouse with picketers, that the way the Hamilton police handled it was simply to escort the rabble rouser or rabble rousers away. They didn't feel it necessary to move in on the picket line.

I've been in a lot of difficult labour situations, like my colleague, Jim Renwick. We've all been out to Proctor-Silex and Tilco Plastics and the Peterborough Examiner and that litany of very difficult labour disputes in Ontario's history. Ironically, when you have a local police force involved, they don't seem to feel the need to be quite so extreme in tactics as the OPP has on a couple of occasions demonstrated at Fleck.

I try to ask myself what is the reason for that. Why does that happen? Could it be that the officers in the OPP are there for this one labour situation? They're not part of the community. You bring them in. They're there during the contretemps and then they will leave. They don't have the same ties, the same feeling, the same involvement in the community that a local police force might have.

[11:45]

Or maybe it's the sense of harassment and frustration which the OPP has at being seen as the scapegoat, and I think in this case my colleague is right, maybe even being played the fool by the company so that the OPP has become the focus of worker discontent.

I read about the incident that happened; I read about it first in the London Free Press. I have a certain gentle and whimsical paranoia about the media, but you learn to identify individuals pretty carefully, and I want to tell you that the reporter who reported for the Free Press is someone I have known for some years as an entirely scrupulous journalist. I have talked to a lot of other people in the field who had been involved and been there, and I had a sense about that day that the police really overdid it.

That is why I reacted so strongly this morning, because I sat here on Friday and thought to myself, "Wow, could everybody have been so wrong? Were there really nearly 200 people there massed on the picket line whom the police had to spread apart in order to get the non-strikers through?" I go right back to what I thought at the outset,

that you had an occasional wrangley moment, although as my colleague Bob Mackenzie says, by and large it was a fairly quiet picket line that morning and you probably had about 45 or 50, or maybe a couple more, who were actually blocking the way.

This is a terribly presumptuous thing to say, but as I am sitting here I just don't believe that you have to send 46 riot-gearred policemen into a crowd of equal size. There has got to be another way of handling it. My goodness, 15 to 20 of those people, according to our own figures, were the women at the plant. You have already said, all of you—Staff Superintendent Garry has said it often—that you have never had any trouble with the local strikers. So how do you send 46 people in on a crowd, the active participants of which are even fewer in number?

No, I think there is a great deal of over-compensation here, Commissioner Graham. I think it is the frustration and exasperation of being played the scapegoat, I think it's the frustration of not getting the damn thing settled, I think it is the irritability at the police having been singled out for criticism. It even, as you can see, warps recollection and memory on occasion; you get so darn mad at what is going on and I, like my colleague, Jim Renwick, would like to urge the Solicitor General and you desperately to try to cool it. I don't know how one handles buses and automobiles going through; I have always thought that one of the bitter ironies of such disputes.

I can remember my father when he was practising labour law did a couple of very interesting cases before the Ontario Labour Relations Board arguing that informational picketing that stopped cars going through was in fact, informational picketing and that it wasn't harassment, it wasn't watching and besetting, and in one or two occasions it was upheld; the board found that, in fact, the law rested with the strikers who were there for that reasonable purpose of informing people who were coming in.

I think the OPP in this dispute is seen so much as an arm of management, is seen as such an extension of the company by the strikers, by virtue of what happened at the outset and the incidents since, that heaven and earth have to be moved to avoid a repetition of what happened on that day. I just can't believe I will sit here and I will listen to all the protestations in the world and it's going to take something almost supernatural to persuade me that you have to march 46

riot-armed policemen into a crowd of similar size in order to clear the path. I almost wish you had called me in Toronto or called a couple of us; we would have gone down and chatted with the strikers and done it without the necessity of moving in on them, holding batons in your fists.

May I make one final point, Mr. Chairman, and then I will shut up. I touched Superintendent Garry on the shoulder on Friday as I went out; he will remember we exchanged a brief look of adversaries; I have prejudiced that relationship this morning, but what Superintendent Garry has said about the strikers is terribly important. This is an extremely courageous, decent, honest, first-rate group of working people—just unusually uncomplicated, straight and feeling. I've seldom seen a group like this. And I want to tell you that a group like this does not provoke. These working women are heroic in what they're dealing with out there, and it is wrong for them to perceive in a civilized, democratic society that the police are an extension of the company. From March 3 till the third or fourth week in May, that's what's happened, and I'm very sorry for that. I'm very sorry for what happened on Friday here and what has occurred. I hope that it can be corrected. I really do. No more.

**Mr. Graham:** Mr. Chairman and Mr. Lewis, I can only repeat what I've said before. We're not an extension of the company. We've had no pressure from the company. I've had no pressure from any political body. We're there simply to protect the life and property of all the people.

**Mr. Mackenzie:** I hate to interrupt, but were we not told that there was some violent reaction from management that you hadn't moved more quickly when somebody got into the plant a week ago, and that they had criticized you? Did we not hear that?

**Mr. Graham:** They were critical; that's right.

**Mr. Mackenzie:** So you have had pressure from management over the strike?

**Mr. Graham:** That wasn't pressure. That was a statement made to Assistant Commissioner Lidstone. We didn't react to what Mr. Berlet said.

**Mr. Lewis:** Actually, Assistant Commissioner Lidstone on Friday—I've recalled Friday very carefully—made it clear that it was a very unpleasant conversation, aggravated on both sides, as I recall. He indicated just how aggravated it was in order to forewarn us about the possible need to have riot troops or crowd-control officers available that



day because management was no longer giving the OPP any guarantees about closing the plant.

**Mr. Lidstone:** Not so. I said they complained. Up until that point we had said we were not prepared to guarantee their safety when there were large numbers of demonstrators. When we had said that prior to this occasion, they had said: "All right. If you're not going to guarantee our safety, we're not going to open the plant." On that occasion Mr. Berlet said they were going to open regardless. I did not take that as an indication that we should start putting, as you said, riot-equipped police in there. He was telling me a lot of things, but he wasn't setting policy, as far as I was concerned.

**Mr. Lewis:** Why did you not even introduce that conversation then, if it wasn't for the purpose of indicating that the tensions might be such?

**Mr. Lidstone:** Certainly there was tension. The whole thing had de-escalated from quite an explosive situation; it had de-escalated to nothing, and it was going back up again. We were frustrated because the matter seemed to have been solved at one point—I shouldn't say solved; the problem had stopped and then it started up again.

**Mr. Chairman:** Mr. Minister?

**Mr. Graham:** May I finish, Mr. Chairman?

**Mr. Lewis:** Commissioner Graham was interrupted.

**Mr. Chairman:** I'm sorry.

**Mr. Graham:** If I may, I would like to comment briefly on our relationship with the community which Mr. Lewis has mentioned. We are part of that community in Exeter, and most of our men know many of the workers by their first names. We attempted to deal with the situation with the men from our local detachment just six miles away. But, as you know, that got out of hand, and that's the reason we had to bring in people from other places.

**Mr. Lewis:** May I ask, when did the people from Exeter move out?

**Mr. Graham:** When did they move out?

**Mr. Lewis:** I seem to remember on Friday some reference to the fact that the local police were no longer involved.

**Mr. Garry:** Generally speaking, it would be after my assignment on March 7 when we started to bring outside people in.

**Mr. Lewis:** Right. So with respect, Commissioner Graham, the recollection is not inaccurate. The great majority of OPP officers who are there and involved are not from the

community. They are there for this momentary fray, and I think that has an important psychological effect.

**Mr. Graham:** Yes. As I say, I didn't think we had any alternative, having to do with all the difficult circumstances.

**Mr. Handleman:** May I follow up what Mr. Lewis and Mr. Renwick referred to in terms of perception? Commissioner, do you accept the suggestion that the perception among the strikers is that you are on the side of management? The statement has been made and you haven't reacted to that. I'm talking to you now only about the perception, not what your real feelings are. Do you see that that perception is there? Do either of the officers with you see that?

**Mr. Chairman:** Which of you would care to answer that?

**Mr. Lidstone:** That's quite a difficult question to give an honest answer to. If I put myself into their position, I would find it most frustrating that they were on a legal strike and there were police officers there, helping those who they are opposed to going to work getting to work.

**Mr. Chairman:** Mr. Handleman, would you please repeat the question?

**Mr. Handleman:** Do you see that perception as clearly as Mr. Lewis and Mr. Renwick have put it? I'm not familiar with the case at all. I'm just wondering whether you, as the people on the line, could get a sense of that feeling. I understand there has been some fraternization. The officers know the people on the line. They talk to them from time to time in a friendly way. Is there that perception?

**Mr. Lidstone:** The only time that I was physically on the line, though I was aware of what was going on, was on March 14 and the local people had faded to the background because there was a very belligerent group of people. In fact, the press reports at that particular time said they were fighting with the people. I wasn't on the line.

**Mr. Handleman:** We're not talking about them. We're talking about the people like the ladies who are in the room here today; local people, those who were on legal strike from the company. Mr. Lewis and Mr. Renwick have both said that there's the perception that the police are against them and that they're not playing a mediator's role, a fair role, an impartial role. I'm wondering whether you feel that.

**Mr. Lidstone:** I think the staff superintendent might be a better person to answer the question.

**Mr. Garry:** As I have stated before, we have tried to answer any complaints we might have received from the local picketers. Naturally, occasionally we get a little jeering and the odd comment that might lead you to believe that they might feel we're a little bit biased in favour of one side or the other. Generally speaking, as I stated before, there never seems to have been a direct conflict between ourselves and the local picketers.

**Mr. Handleman:** There has been some jeering. The suggestions were made that that perception stems back to the original March 3 meeting that was held prior to the strike taking effect.

**Mr. Garry:** I couldn't comment on that. I'm commenting on the length of time that I've been actually physically on the picket line. My contact with the people on the picket line hasn't indicated to me that they feel that we are their actual adversaries.

**Mr. Chairman:** To get the record clear then, your answer is no. Is that what you're telling us?

**Mr. Garry:** No, in my opinion, it's not been my experience that I've been treated as an adversary since I've been assigned to the picket line duties.

**Mr. Handleman:** Mr. Lewis also said something that was quite interesting. He accepts that there is a legal right on the part of those workers who wish to continue to work. I assume you and your officers accept that there is that right. How do you manage to protect the right to communicate on the part of the picketers and that right of access of the workers when the rights of one perhaps are being either interfered with or threatened to be interfered with by another group? How do you try to protect the rights of two people who are diametrically opposed in exercising their rights?

**Mr. Graham:** We have tried a high profile and we have tried a low profile. As Mr. Lewis says, usually the rabble rouser is removed from the picket line and escorted away. We have done that too. In other cases, outside people have come in. We've all emphasized that we've had no trouble with the local picketers but with people who have come off shift early in the morning and have taken buses and have been drinking and are truculent. They have caused us serious problems and we have had no alternative but to try to get the workers who want to exercise their rights and make an honest day's living into the plant.

That's still a privilege and a right which we take cognizance of. If we had to deal only

with the local picketers, there would be no problems and we wouldn't be there at all.

**Mr. Handleman:** I suppose it's very easy to make a judgement after the fact, but do you really think that it's necessary to have a one-on-one situation in order to protect the rights of those workers? You don't escort each of these people into the plant individually. Mr. Lewis has asked why it was necessary to have almost a one-to-one relationship in terms of the numbers of police versus the number of people on the line.

[12:00]

**Mr. Graham:** I emphatically agree that that is certainly not necessary.

**Mr. Handleman:** It isn't necessary. If you had known in advance, would you have authorized that?

**Mr. Graham:** No, I would not. That was a judgement made by Superintendent Garry at the time. I was not aware of it.

**Mr. Lewis:** That's a very important thing you are saying, Commissioner.

**Mr. Graham:** I know.

**Mr. Lewis:** Forgive me, Mr. Chairman. I deferred to Superintendent Garry on Friday morning because I thought there were 200 people massed. It now emerges that it was one on one. That is not something you would countenance?

**Mr. Graham:** No, I would not.

**Mr. Lewis:** Okay. Has that been communicated to Superintendent Garry?

**Mr. Graham:** It has.

**Mr. Lewis:** Thank you.

**Mr. MacBeth:** Just in fairness, let's remember that we expected many more there.

**Mr. Lewis:** But he was physically there when he called in the crowd control officers.

**Mr. Chairman:** Are you finished, Mr. Handleman?

**Mr. Handleman:** Yes.

**Mr. Chairman:** Mr. Ziemba followed by Mr. Mackenzie. I have no further questioners on my list.

**Mr. Ziemba:** Actually my question has to do with what Mr. MacBeth just referred to. Superintendent Garry, the decision to use crowd control gear was based on an intelligence report you received. Is that correct?

**Mr. Garry:** It was based on previous intelligence with respect to the small flame-throwing device that had been detected by our intelligence people at an earlier date. It was protective.

**Mr. Ziemba:** How do you receive this? What methods do you use to gather this intelligence?

**Mr. Garry:** We have intelligence units. I don't think I am in a position really to discuss their methods.

**Mr. Ziemba:** You have discussed one method where you count the supporters getting on the bus in Windsor. Then I guess you phone in the number to the Centralia detachment. I am interested in this because it seems that your intelligence isn't accurate. I'm not trying to get every last detail but would you use electronic surveillance as one method of intelligence gathering?

**Mr. Garry:** No. As I say, periodically the intelligence units, I suppose, are in a position to count physically each person boarding a bus. At other times they are not capable of doing that. They estimate the number of vehicles that are being used. You base your estimates on the carrying capacity of the vehicles.

**Mr. Ziemba:** You say you don't use electronic surveillance?

**Mr. Garry:** Not to my knowledge.

**Mr. Ziemba:** I have one other question for the commissioner. This crowd control gear, as far as I can tell, is a fairly new phenomenon. I know they have used it in Quebec and it has been fairly popular in the US. Did you just buy it? I have attended many picket lines, including one of the most violent, the Artistic Woodwork picket line, where there were over 100 people arrested. A number of charges were laid against the police and whatever. The police there didn't use it.

**Mr. Graham:** We have had crowd control gear for years. About six years ago we added the visor.

**Mr. Ziemba:** And a club cap.

**Mr. Graham:** No, the face visor. That was to protect the officer's face from flying objects and from all sorts of harm that might come to him. That was brought about through experience in other jurisdictions.

**Mr. Ziemba:** And the clubs are recent purchases?

**Mr. Graham:** No. We used to have the old-style clubs from the day I joined the force. The night batons, the batons as we prefer to call them, we've had about 10 years. We find it a very effective way of handling a crowd, not only on the picket line but in other areas.

**Mr. Ziemba:** Have you ever used them on other picket lines?

**Mr. Graham:** Yes, we have, the latest one being the General Motors strike, I believe, on the outskirts of Woodstock. There were no problems whatever.

**Mr. Ziemba:** Do you believe in Murphy's law that if you have a club somebody is going to get clubbed?

**Mr. Graham:** No, not when they are used as we use them.

**Mr. Chairman:** I believe Mr. Renwick wants one supplementary on that.

**Mr. Renwick:** Not on this point. I just wanted to go on the list.

**Mr. Chairman:** I'll put you back on the list. Mr. Mackenzie.

**Mr. Mackenzie:** I have just two brief points additionally to put in perspective our concern about the decision last Wednesday. I am glad to hear the commissioner's comments on it.

One of the orders given to the women, and while the chain of command is very tenuous, and the other picketers in front of that loading gate when the 46 riot garbed police appeared, was to put their hands in their back pockets. They were instructed to do so by one of their own people, and also by George Labute from Windsor, so there would be no provocation and almost all of them did. I had a comment from one since, one who was hit, that had she known what was going to happen she might have protected herself a little better. But there was not only that small number there on the line but they had their hands in their hip pockets.

The thing that really concerns me, Mr. Minister, is your statement that there was some attempt to explain the rights at that meeting on the third. I have also been involved in a few strikes over the many years I have been in the trade union movement. I can never recall—I am not saying it hasn't happened—management closing down a shift and calling in the workers to get a lecture both from management and provincial police officers on what they can or can't do on the picket line in advance of their picketing, and in particular when their leadership, in effect, is down in London in negotiations.

I would suggest to my colleague, Mr. Handleman, that he talk to some of the girls. One of the strengths of these people is they have not become haters. They attempt to keep a fairly decent relationship with the OPP and the local officers. They will tell you, if you talk to them, "Well, I guess they are doing their job." From that initial meeting the situation was poisoned almost beyond repair because the bitterness and divisions were highlighted and the police were clearly



seen to be at the beck and call of management.

The point made by my colleagues, Mr. Renwick and Mr. Lewis, is a very valid one. What has happened there is not that they want to start disliking the police—thank God that we haven't got to that stage in this situation—but that clearly they have a fight with Grant Turner and Fleck Manufacturing getting off scot free, whether you like it or not. And in that strike we've been played for patsies. And I hope some people start to realize that.

**Hon. Mr. Kerr:** My remarks as a result of Mr. Renwick's comment were in relation to information given to the workers. He indicated there should have been more information given to the workers in respect to their right of picketing, what a picketer can do on the picket line. I just made reference to the meeting of March 3. That was the main purpose of that meeting.

All the surrounding circumstances and allegations of what took place that you are making was not the point I was emphasizing. The point is there was an attempt because this was the first time the great majority of employees would be involved in a situation like this and therefore it seemed natural that they should know what their rights or duties would be in the event of a strike.

**Mr. Mackenzie:** May I make one suggestion to you, Mr. Minister? I think that the police/labour situation in our area, in the city of Hamilton, is one of the best I have ever seen and I have had a lot of experiences in Windsor, Hamilton, you name it. In Hamilton when we have a similar situation, particularly if it looks like it might lead to a rather nasty confrontation, there are certain police officers who talk to the union members and to the workers. Whether they talk to the company or not I don't know; I presume they do. But you sure as blazes don't see them sucked into the kind of situation we had at Fleck. When they do that there is a clear understanding of where we stand and there is an appreciation of their work as a result of that.

**Hon. Mr. Kerr:** I want to refer very briefly to some of the things that Mr. Lewis mentioned—

**Mr. Renwick:** Mr. Chairman, is the minister winding up? If so I would just like to make a couple of comments.

**Mr. Chairman:** Before the minister winds up, we'll give both of the opposition parties a chance to wind up and then give the minister a few minutes.

**Mr. Renwick:** I want to make three points, looking towards the future. I happen to have respected the reporting that has been done on the Fleck strike by Julian Hayashi. Julian Hayashi is a reporter. He is not responsible for headlines, as every reporter in the press gallery at Queen's Park will tell any politician who complains about them.

Believe me, even if this sounds a bit like a lecture, one of the most valuable things all three of you could do would be to read Julian Hayashi's reports about it from the first day of this strike when it became a matter of press comment. They are factual, they are not opinionated, they don't take a view, but they give a very accurate perception of what happens. You will probably disagree with some parts, there are other parts you will say should have been corrected, on their minor actions. I want to make that point very clearly. I think that that would be extremely important.

I want to try to add a footnote to what my colleagues, Mr. Lewis and Mr. Mackenzie, have said. The strikes which have bedevilled the province are in the small feeder plants, unorganized plants in relatively—and those who come from prettier parts of Ontario than the rest of Toronto except Riverdale please forgive me—isolated communities. The employees receive wages that are, without exception, marginally above the minimum wage. Their employment is either intermittent or subject to change at some point.

Whether it is Proctor-Silex down in Prince Edward; or whether it is Fleck; or whether, in earlier days, it was the Philco plant, these are all very tense situations for the union which is organizing and for the people who are being organized. In most of those feeder plants, the preponderance of the unorganized workers are women.

The second point I want to make is I hope that out of this, there will be some special effort by the OPP to—presumptuous as this may be—reassess its sense of objectivity and impartiality—we all believe we are objective and impartial about various things—to become really sensitive to the kinds of conditions that exist in the circumstances where this takes place. If one wanted to make a sociological study of a disaster area in the province of Ontario, from the point of view of what I am saying the history of that Huron Park would be so. That is damning, in my judgement, to the government of Ontario—and believe me, I am not being partisan in this; it is only because the Tories have been around so long.

In fact, in the history of those low-wage feeder plants in that area the only efforts to get something called a fair shake out of this

are made by the trade union movement. You don't have to be totally pro-union to make some statements such as that. That place has been a disaster.

It is a situation which is duplicated in many places throughout Ontario and will be exacerbated because of the lousy economic conditions that we have got here with unemployment difficulties of people getting it. And I hope that the OPP will set aside some special group of people to try to understand both sides, all sides of the problems that you are faced with and how you should deal with it.

[12:15]

**Mr. Chairman:** Yesterday Mr. Stong was good enough to tell me that he would be late today, and he has just come in. He is the Liberal critic of this ministry and, in fairness, I would like to give both the NDP and the Liberal critics an opportunity to give a summary statement if they wish.

**Mr. Renwick:** I am sorry, it did come back and it was important and I want to say this.

**Mr. Chairman:** Okay, then I will recognize Mr. Lupusella and then Mr. Stong, and that may give Mr. Stong an opportunity to catch his breath.

**Mr. Renwick:** Let me make that last comment. I caught—and I am a person perhaps who understands or is sympathetic to the problem—I caught the dissociation by the commissioner from Staff Superintendent Garry. I, too, have been around long enough, both here and elsewhere, to want to say this:

The failure, if I could use that term, of the OPP in this situation, of which Staff Superintendent Garry suffers the brunt because of that dissociation that was made today, is not in my judgement a reflection on Staff Superintendent Garry. It is the way in which your force has dealt with this situation and which has led to what I am sure everyone would agree in the long run was an error in judgement, but we will not get any improvement in what we are saying if one simply says, "On one day over the life of a very bitter strike there was an error in judgement, but everything else was fine."

The error in judgement, if I can call it that, with great respect to Staff Superintendent Garry, that error in judgement was a culmination of, as I say, the overall failure of the OPP, and I am lecturing a little bit, to comprehend what was happening in social terms, in economic terms, in union terms, in management terms in that area. I, for one, do not anticipate or otherwise that Staff Superintendent Garry would suffer in any way as a result of these particular committee hearings.

**Mr. Chairman:** Mr. Lupusella, do you have a concluding statement?

**Mr. Lupusella:** Mr. Chairman, considering that a lot of statements were made by my colleagues, I have nothing to add.

**Mr. Chairman:** Mr. Stong or Mr. Bradley?

**Mr. Stong:** I am content to let Mr. Bradley sum up, because he had the benefit of the hearing this morning and I would just as soon let him sum up.

**Mr. Bradley:** Thank you, Mr. Chairman. I have found extremely interesting the exchanges that have taken place, I think in a very reasonable manner, this morning on an issue which has obviously provoked a good deal of emotion, not only amongst the people who are directly affected by the strike and by those who are involved from the police point of view but by members of this Legislature. I think it's important to state at the beginning, regardless of our opinion of the actions of the police, speaking for myself, that I hold no brief for Fleck Manufacturing.

I think Mr. Renwick has pointed out very well that in many of the plants of this type, the circumstances are repeated time and time again and they arise, I suppose, from the kind of working conditions that are in these plants related to wages, related to safety and so on. It will probably continue to happen in this province as long as we have wage scales in certain plants far below what many would consider to be decent.

I won't get into the details of the contract or so on because this is not the place for it today, but it does play some part in the comments that I make. I appreciate very much the position the police are placed in. In my own constituency, and I am sure in lots of constituencies across the province, the police are placed in a position where they are perceived to be on the side of management sometimes because it is their job—perhaps I'm using the wrong word—to escort those who wish to continue working at a specific plant through the picket lines.

I suppose it depends on the circumstances at the particular plant whether one sympathizes with those trying to go through a picket line or not. My own personal feeling from my own personal background is that I hold no particular brief for those who are attempting to break a strike—I'm not saying this is necessarily the case; it may be the case here—or continuing on an operation that should not continue on under the circumstances that exist.

I think the initial visit to the plant by the OPP at the request, I understand, of Fleck, has contributed certainly to the perception

that the OPP may not have been impartial in this. I'm not saying that the OPP has not been impartial. I'm saying it may have contributed to the perception that they're not impartial. I think that's unfortunate and perhaps we've learned from this circumstance that this should not continue in the future.

I think Mr. Mackenzie, with his own experience in the labour union movement in relating to us the experience of the Hamilton police, has probably recognized a reasonable way of handling circumstances of this kind where there is communication, but the communication is at the request of the union, between the union and the police force involved.

What has been pointed out, which I think certainly speaks well for those who are employed or at least on strike at the present time at the Fleck plant and which has been verified by everyone involved—I've heard no one contradict this—is that it is the usual circumstance that those who are directly involved in the strike, the local people, do not present a problem in terms of law enforcement.

I think we recognize too, as Mr. Mackenzie has brought out, that intimidation, threats and perhaps other actions take place on both sides in a labour dispute. Therefore, it is the responsibility of a police force to look into accusations on both sides. I'm sure the OPP have done that to a certain extent and will continue to do that when these threats are made known to the police.

Problems always arise, I suppose, when outsiders, you can call them, though I think they're sympathizers, come who are not necessarily that interested in the issue. They may be interested in the excitement. But many of those who do come are sympathetic because they have a circumstance they've gone through where they've had to confront working conditions that are similar to what exist in some of these smaller plants.

At least in my own opinion from the evidence presented, there has been reason to believe there was a necessity for a strong show of force—again, I may be using the wrong terminology—on the part of the police. We could quarrel, I suppose, if we were on the spot and we had more detailed knowledge, with the judgement or not quarrel with the judgement of individuals on the job.

I think we recognize that their judgement is based on intelligence which may or may not be accurate. In some cases it has been and in some cases it hasn't been. There is the idea that if they are not there to react to the circumstances, the reaction of the public would be far greater than if they

overcompensate for circumstances that exist. I think we have to have a certain amount of sympathy for the position of the police with the kind of intelligence they have and what they feel might happen and what their duty it is to protect people and property.

An interesting and difficult problem brought up by Mr. Renwick is how a police force can also protect those who want to enter a plant. As Mr. Lewis has stated, he feels that they should have that right. Although he doesn't necessarily sympathize with those who do go in, he does feel they should have that right. A difficult problem is how to protect those people and, at the same time, allow for peaceful picketing and communication between the strikers themselves and those who are trying to go through the line. I don't know how that can be done in realistic terms.

In theory, it would be nice to say you should stop the automobiles or the buses and have the people who are on strike speak to those inside, because signs themselves certainly don't tell the whole story. I don't think signs are necessarily the only way of communicating. They're a rather poor way of communicating.

I don't know how you can do that if the people on the bus or in the cars do not wish to be stopped. A problem arises there, although I would like to see that kind of communication. Many times those who are crossing picket lines perhaps don't have the inside information or elaboration that pickets might be able to provide. I really have no answer to how you solve that problem.

I think the exercise of having the gentlemen directly involved and other representatives of the OPP has been a useful one. There have been times when some unfortunate exchanges have taken place. I suppose there have been times when my temper has risen when I heard some of the questioning which I felt was unfair. Nevertheless, I think it's been an excellent and useful exercise which, in the future—in this strike and in any future strike that exists—will serve as a useful experience and will perhaps guide all concerned, particularly the Ontario Provincial Police, in attempting to deal with some very difficult circumstances. Mr. Chairman, I conclude my remarks.

**Mr. Chairman:** Before the minister concludes, if I may, as chairman, I would like to make just one comment. This committee has had a number of very contentious and emotional issues come before it. The members will particularly recall some private bills that were before the committee. On



those instances, the committee has had very partisan groups come to watch the deliberations of the committee.

Members will also recall that occasionally the chair has had some trouble disciplining some of those groups in the audience. I think it would be remiss on my part if I didn't point out how appreciative I am of the discipline and the conduct of the group from the UAW that's been in our audience today. We appreciate the way in which they have behaved themselves today.

**Hon. Mr. Kerr:** Mr. Bradley has given a very good summary of the events and has said a number of things that I would want to say. Mr. Renwick, in his closing remarks, made the comment that there was an overall failure of the OPP to comprehend what was happening. In answering that, I just want to refer to Mr. Lewis's comments about the right of access and the fact that he disagrees with Mr. Pilkey's stand on that particular point.

That is one of the cores of the problem here. There is no question that maybe Mr. Pilkey's attitude is also the feeling of a number of people who attended at the picket line, who perhaps felt that it's a question of either a contract or closing the plant down. If you have that attitude, and that is one of the main purposes of reinforcing a picket line, then again you have the police in a situation where their duty and responsibility is to allow free access by those workers at the plants—not scabs, workers at the plant—who want to continue working.

If you recall here that we're talking about a plant that is called Fleck, that I think resulted in extraordinary attention being given to that situation. Mr. Renwick referred to some of the reports of the media. This couldn't help but reflect the situation and certainly made the situation around the plant more volatile than it would be in a normal strike or labour dispute of this kind.

[12:30]

In my opinion, in defence of the OPP, when a strike has been going on for 11 weeks, or nearly three months, and you have two dates that have been mentioned, March 3 and May 24, when there was some error in judgement, in my opinion it is not fair to view the whole history of that situation as a failure on the part of the police.

The police don't particularly like their role. If there is an intent to have a picket line to deny access of workers, then the main function of the police, as well as keeping peace on that line, is to make sure that the workers who want to work have an opportunity to do so.

As I mentioned in the Legislature, there was a period of about nearly three weeks when there were no incidents. Except for one day when there was one officer at the picket line, there were no police at the scene. This is forgotten, I suppose, when we zero in on one particular day when there was a decision to use crowd-control equipment.

Frankly, being aware of the situation off and on since March 6, I feel that, in view of the surrounding atmosphere and the whole milieu in that area—the threats, the accusations, the reports of what people are saying in the press as to what will be done there, the comments that are in the commissioner's statement this morning—all that certainly doesn't allow for a very rational or completely uncomplicated situation in a bitter dispute of this kind.

My comment, Mr. Chairman, is that I feel the police have handled the situation well.

Dealing again with the incident on May 24, which Mr. Mackenzie referred to, I think we should not forget that Staff Superintendent Garry has told us—and again this deals with the question of access—that he spoke to a union official twice about allowing the workers through. He obviously didn't have any influence with the picketers who were there; he used a hailer three times to ask the picketers to open up the line and let the workers through.

I think that is very important, separate and apart from the question of the equipment or the crowd-control gear that the officers would be wearing.

I am not denying that in itself results in some provocation, or that it affects the atmosphere, but the point is that his main duty there is to open up the picket line and he didn't get the results or the reaction that he asked for.

It is naïve to think that everybody can be rational and could use perfect judgement in a situation like that when the main purpose of the police is being flouted in that way.

It is easy to get into a numbers game, saying there were too many police or your intelligence wasn't accurate. But when you think again that this strike has been going on for nearly three months, that days and days have gone by without incident and there have been days when there has been a large number of picketers from outside, again with no incidents, then to zero in on one particular day and say that there has been an overall failure of the OPP to comprehend, in my opinion, is not a fair assessment.

I agree with the comment of Mr. Renwick when he said that there are always problems in so-called low-wage feeder plants that he

referred to, but again I am speaking to the police role here and not to the working conditions, or the condition of the plant, or the wages, or whether or not there should be union security in 1978. These are not the things that the police, in carrying out their duty, are to take into consideration. Their role is to maintain peace in the picket line and, as Mr. Lewis indicated, allow right of access.

As long as there is any dispute over that, as long as there's a feeling that the law should be changed and that this principle in itself favours management we will have this type of confrontation. Again, to repeat what the commissioner has said, the police want the strike settled. They're tired of being accused of neglect one day and overkill the next. They want to see the strike settled so they can get back to their normal duties.

**Mr. Chairman:** I'm going to ask Commissioner Graham and Assistant Commissioner Lidstone to stay at the microphone. We thank you, Staff Superintendent Garry.

I suggest to the members of the committee that we continue with vote 1604, item 1, the office of the commissioner. Do any of you have any other questions on that office or any comments?

**Mr. Renwick:** What is your wish, Mr. Chairman? What are your plans?

**Mr. Chairman:** We stood down vote 1603, which was the supervision of police forces program. I suggest to you that it might be reasonable to continue with vote 1604, which we had originally planned.

**Mr. Renwick:** Until what time?

**Mr. Chairman:** Until 1 o'clock, and if that vote is not completed, to start with it again on Friday and then, after vote 1604, to go back to vote 1603 and pick up. Does that meet with the approval of the two opposition critics? Vote 1603 is the Ontario Police Commission.

**Mr. MacBeth:** Mr. Chairman, can I raise a point of order? First of all, I would commend you on the way you've handled the very tedious and difficult matters we have just gone through, but quite frequently throughout this hearing you've referred to the consent of the two opposition parties. I would remind you that we in the Progressive Conservative Party are here as members as well. We have our individual rights as members, which I would just ask you to recognize from time to time.

The minister does not necessarily speak for the members of the PC Party, so when you're allowing statements from the two opposition parties, whatever the matter would be, the

individual members of the Progressive Conservative Party have just as much right to speak. I just wanted to emphasize that.

**Mr. Chairman:** I've never denied that right, Mr. MacBeth.

**Mr. MacBeth:** No, I know you haven't, but you refer to the consent of the two opposition parties. It's the consent of the members of the committee, and not of the opposition spokesmen.

**Mr. Chairman:** I think you will find that the majority of members on the committee like to know the position of the minister and of the two opposition critics first, and then, with that information, they can either choose to support that position or dissent. The normal routine, the normal protocol, is to consult with those two people and the minister first.

**Mr. MacBeth:** That may be, but I get a little touchy on these things, Mr. Chairman, and I intend to continue to be touchy on it, because I would remind you that we are here as members and have equal rights as members, sir. As I said, you've been very fair in your conduct of the meetings in the last few days.

**Mr. Chairman:** I am sure if you can convince Mrs. Campbell of that statement, then we will have unanimous consent of the committee.

We are on item 1, office of the commissioner.

**Mr. Stong:** do you have any questions on that?

**Mr. Stong:** Mr. Chairman, I could ask some general questions on this particular vote.

**Mr. Renwick:** Will you be going to 1 o'clock.

**Mr. Stong:** Not really, probably for about five minutes. By the time we get an interchange of questions and answers—

**Mr. Renwick:** I have to go and get some of my papers. You won't pass the vote.

**Mr. Chairman:** No, we won't get this vote passed today.

**Mr. Renwick:** I have one matter I would rather do the next day, if I may.

**Mr. Stong:** This question is rather a general question dealing with the OPP and its function throughout the province. Particularly, I would like to question the commissioner with respect to the co-operation or lack thereof that he receives from regional forces and local police forces throughout the province, particularly in the areas of criminal investigation. Could you give us some guidance there with respect to the ability of local police forces and regional police forces to

match your personnel and to match your expertise? Are you called in to investigate offences or that type of situation or do the police forces operate in a vacuum on their own?

**Mr. Graham:** The relationship between the Ontario Provincial Police and the municipal police and the regional police is excellent. Starting out with the small police departments, they depend on the OPP to assist them in matters of a major nature, a criminal nature, as well as to assist them in traffic control during fall fairs and items in that area.

In the larger centres where there are regional police as well as city police, we work very closely with them. We have several joint forces operations going among the OPP, Metro, RCMP, as well as in other areas in Hamilton-Wentworth, Niagara, London and throughout the whole province. The Police Act provides that we must maintain a criminal investigation branch to assist municipal police at the direction of the Solicitor General or at the request of the crown attorney. In practice, we also assist the chief when he asks for assistance from us.

**Mr. Stong:** If I may follow through with this slightly, I am given to understand that among certain regional police forces there is competition or lack of co-operation. Perhaps more politics are being played in some of these forces than there ought to be. I would like to relegate my questions at this time to criminal investigation because I would like to come back to highway traffic patrol later on. Where criminal investigation is concerned and the crime originates within the boundaries of a regional police force, are you providing supplementary police assistance or do you find yourselves taking over the investigation and the conduct of that investigation?

**Mr. Graham:** We are always supplementary. We never take over when we are assisting any other police department. We do the investigation and we assist them. If charges are laid, the information is always laid by the local or municipal police.

**Mr. Stong:** When the Ontario Provincial Police are asked to assist then, how is the remuneration divided? Who pays the shot for the OPP assistance?

**Mr. Graham:** The OPP pay their own expenses and their own salaries. There is provision in the Police Act for a charge-back but it has never been used that I can recall.

**Mr. Stong:** Have you any statistics that would assist us with respect to assistance that the Ontario Provincial Police has given local

police forces and the amount of money and time that would be involved so we could get some idea at the kind of service you are giving to the communities?

[12:45]

**Mr. Graham:** I don't have those figures at hand.

**Mr. Stong:** Are they available?

**Mr. Graham:** I might be able to find them.

**Mr. Stong:** I wonder, Mr. Minister, if I could have that type of figure for the last fiscal year.

In areas where there are already established regional police forces, I know particularly in York that the OPP patrols major highways such as Highways 11 and 48. Could you give me your reasons for deploying the OPP to patrol those highways strictly for highway traffic offences when we already have a police force in that area that could just as easily cover those highways?

**Mr. Graham:** It is in accordance with the Highway Traffic Act, as well as the Police Act, and I think one of the reasons probably is so that there will be uniformity of enforcement on the large King's highways.

**Mr. Stong:** Mr. Chairman, I was hoping that the minister would be here to ask him this question too.

**Mr. Chairman:** I believe he said that nature had some compelling—I don't know whether nature means TV cameras or some other thing, but I assume we will let him leave the room for a minute or two.

**Mr. Stong:** Perhaps, then, I can briefly pursue this point with the commissioner.

The local police forces are also responsible for the enforcement of the Highway Traffic Act, are they not?

**Mr. Graham:** Yes, on most roads, but not all of them.

**Mr. Stong:** It would seem to me—and I really did want to take this up with the minister; perhaps I will pass on this issue and let somebody else speak, although I want to come back to that issue when the minister is here. That is basically the area of my questioning of the commissioner's office; so perhaps we could just hold it there.

**Mr. Lupusella:** If I may, Mr. Chairman, I would like to raise a few questions about the involvement of the OPP and the commission in relation to organized crime in Ontario.

It seems that you had a press conference last year, and your commission took the particular position that organized crime in Ontario is under control. The then Solicitor General went along, of course, with this particular statement.



From the other side, we heard the former federal Solicitor General, Francis Fox, state that the province of Ontario didn't do a good job of controlling organized crime.

I am glad that you are appearing before this committee this year in order that you can make your own statement. Last year we considered these estimates in the Legislature; therefore, it was the Solicitor General who was responsible for answering those questions.

Mr. Fox clearly stated that in his opinion the province of Ontario didn't do very much in relation to organized crime; therefore, taking his statement into consideration, I arrived at the conclusion that organized crime is not under control.

When I raised this question with the then Solicitor General of Ontario, he said that in his opinion organized crime was under control. When we got into this controversial question of Mr. Fox's statement that the province of Ontario didn't do very much work to keep organized crime under control, he told me to go and ask Mr. Fox about his statement.

If he were really responsible, as Solicitor General, he should have gone there. He should have written a letter to Mr. Fox and said: "Why are you making this statement? I would like to know your version about organized crime." I am a critic; we are not the government. I think it is the Solicitor General's duty, when those statements are made, to be concerned, to write letters and eventually to go to Ottawa and ask him why organized crime is not under control in Ontario instead of suggesting that I go to Ottawa and ask this particular question. I think that was an irresponsible statement which was made in the Legislature.

Mr. Cureatz: John's resigning now.

Mr. Chairman: Do I take it, Mr. MacBeth, that you want to be next on the list?

Mr. Lupusella: You don't want to defend your record?

Mr. MacBeth: No, I can't stand that harsh criticism and I've decided I should resign.

Mr. Lupusella: I hope that next time you won't send the critic to Ottawa to ask Mr. Fox why organized crime is not under control in the province of Ontario.

Mr. Chairman: The question is, is there going to be a next time and, if so, then are you going to do what you asked him to do?

Mr. Lupusella: I didn't raise the question to the former Solicitor General.

Mr. Chairman: I suggest it would be more appropriately directed towards the Premier (Mr. Davis) than towards Mr. MacBeth.

Mr. Lupusella: I think the commissioner can give us an answer about the controversial issue which arose last year in relation to organized crime. Why, in your opinion, is organized crime contained and under control in the province of Ontario? What kind of assurance are you giving us that organized crime is under control? On what basis did the former Solicitor General make this particular statement that Ontario did not do very much work to contain organized crime in the province?

Mr. Stong: On a point of order, Mr. Chairman, I don't want to break Mr. Lupusella's stride in this area, because I have questions also, but I thought that they would have pertained more to vote 1605, the operations program and the special services investigation branch. I was reserving any questions that I had in this area until that point.

Mr. Lupusella: You can raise the questions under the proper item. The commission is before us—

Mr. Stong: Okay, it's in your hands. I don't want to cut you off but I was just wondering how we were handling it.

Mr. Chairman: Perhaps because it will no doubt be a very long and detailed answer and because we have only five minutes, the commissioner would be good enough to take advisement of that, and maybe, Mr. Lupusella, you can remind us when we come to that vote. I have no doubt it will be a very detailed session on that one item.

Mr. Lupusella: Okay, Mr. Chairman, if I may then I would like to raise another particular question in relation to the Fleck strike. On March 15, the OPP, armed with search warrants confiscated 157 negatives from the London Free Press and 12 minutes of film from two television stations, Global and City TV I believe. Using this material to identify certain persons in the demonstrations, the OPP laid charges against three people. What was the criterion used on that particular issue? Why were 12 minutes of film confiscated from two television stations? Would you please give me an answer as to what kind of criteria you implemented on that particular action?

Mr. Graham: Mr. Chairman, we did not confiscate any films from TV or any place else. We did go to the press and a TV station under the authority of a search warrant. It was issued by a justice. The matter had been taken up with a crown attorney and we were seeking evidence to prove the commission of a crime. They are exhibits, and like any other exhibit we get it where

it is available. In this case, to make identification and so on, we had no other available means of doing so.

**Mr. Lupusella:** If I may, what kind of a crime was committed and why was the OPP particularly interested in this?

**Mr. Graham:** It was obstruction, intimidation, offensive weapons, like a baseball bat with nails in it.

**Mr. Chairman:** Nails, but not to hold the baseball bat together.

**Mr. Lupusella:** So after confiscating this material, and after you reviewed the whole situation of identifying whether or not a particular crime was committed, did you give back this material or are you planning to give back this material to the press?

**Mr. Lidstone:** In most instances, they made copies of the material. It was available if they wanted it. Some of the material will be used as evidence when matters are finally before the court and resolved by the court. Some of it is very definitely the best evidence available and will be tendered to the court as evidence in charges.

**Mr. Lupusella:** So then I can assume there will be a court order ordering this material to be returned, or to become police property, or court property?

**Mr. Lidstone:** It is not police property. It's seized under the authority and provisions of a search warrant.

**Mr. Lupusella:** I realize that.

**Mr. Lidstone:** The material is taken before a justice of the peace and he has directed that it be held until the matter is resolved by the court. But it's not police property.

**Mr. Lupusella:** So in other words, when the judicial process is over in relation to those charges involved in the court order, the material is going to be returned to the TV station? Is that what is going to happen?

**Mr. Lidstone:** It will be returned to the TV station or the individual newspaper or wherever it came from. It will be returned to its original source.

**Mr. Ziemba:** Will the court actually consider films that were shot by a TV station or films that were shot by newspaper photographers as evidence?

**Mr. Lidstone:** It certainly is evidence. But as to how they will handle it, that will be a decision of the court. It would certainly be

improper for me to comment as to what the ruling might be.

**Mr. Ziemba:** But you were going to submit it as evidence?

**Mr. Lidstone:** It's the best evidence available. Under the procedure of using the best evidence available, it would be tendered as evidence in the prosecutions.

**Mr. Chairman:** When we next meet—

**Mr. Lupusella:** Mr. Chairman, I would like to continue.

**Mr. Chairman:** Our time is running out, Mr. Lupusella. Could you be the first at the next meeting?

**Mr. Lupusella:** I just have a short question.

**Mr. Chairman:** Just one short question.

**Mr. Stong:** Mr. Chairman, this line of questioning should be under vote 1605 too. I also wanted to follow up. Perhaps we could hold this question over. The confiscation of evidence is an important area that I would like to get into as well. I don't want to cut you off again but I do want to follow up on it.

**Mr. Lupusella:** Maybe I could raise this because then we have to initiate the discussion again. It will be a short question.

By confiscating this material, did the OPP take into consideration the Canadian Bill of Rights—in particular section 1(f)? Why did you arrive at the point of confiscating the material when the Bill of Rights prevents it?

**Hon. Mr. Kerr:** We'd better read the section of the Bill of Rights that prohibits that—

**Mr. Lupusella:** I don't have that particular section here in front of me.

**Hon. Mr. Kerr:** —because, basically, this is evidence and the police have the right, by way of subpoena, to obtain evidence. There is nothing to my knowledge that is contrary to the Bill of Rights.

**Mr. Lupusella:** I don't have the contents of those particular sections. Maybe I can take a look at them and we can pursue the issue further then.

**Mr. Chairman:** We will still be dealing with vote 1604, item 1 when we next meet on Friday. After vote 1604, and the various items, we can then move back to vote 1603.

According to my calculations, we have four hours and 35 minutes left in these estimates. Thank you.

The committee adjourned at 1 p.m.

## CONTENTS

---

Wednesday, May 31, 1978

Ontario Provincial Police, Management and support services program .....	J-133
Office of the commissioner .....	J-133
Adjournment .....	J-162

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Cureatz, S. (Durham East PC)  
 Davidson, M. (Cambridge NDP)  
 Handleman, S. B. (Carleton PC)  
 Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General  
     (Burlington South PC)  
 Lewis, S. (Scarborough West NDP)  
 Lupusella, A. (Dovercourt NDP)  
 MacBeth, J. P. (Humber PC)  
 Mackenzie, R. (Hamilton East NDP)  
 McClellan, R. (Bellwoods NDP)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Pope, A. (Cochrane South PC)  
 Renwick, J. A. (Riverdale NDP)  
 Sterling, N. W. (Carleton-Grenville PC)  
 Stong, A. (York Centre L)  
 Taylor, G. (Simcoe Centre PC)

**From the Ministry of the Solicitor General:**

Garry, H. T., Staff Superintendent, Ontario Provincial Police  
 Graham, H. H., Commissioner, Ontario Provincial Police  
 Lidstone, J. W., Assistant Commissioner, Ontario Provincial Police













# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Administration of Justice Committee

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Friday, June 2, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue. Contents of proceedings also appears at the back of this issue.

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## LEGISLATURE OF ONTARIO

FRIDAY, JUNE 2, 1978

The committee met at 11:31 a.m.

Following other business:

[11:47]

### ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

(continued)

On vote 1604, management and support services program, item 1, office of the commissioner:

**Mr. Chairman:** I have two substitutions. Mr. Doug Kennedy is substituting for Mr. Williams. Mr. Lane is replacing Mr. Handleman. It's a pleasure to welcome Mr. Lane to the committee, because he and I spent many hours on another committee, and this is the first time I've been able to serve with him on this one.

We're on vote 1604, item 1. Mr. Lupusella, I believe, was on my list, followed by Mr. Kennedy.

I'm sorry. I'm negligent in pointing out that Commissioner Graham has with him today Deputy Commissioner Grice and Deputy Commissioner Erskine.

**Mr. Lupusella:** Thank you, Mr. Chairman. In essence, what we were discussing in a previous sitting was the confiscation of press films and negatives, making particular reference to the Fleck strike. At that sitting, I emphasized Canada's Bill of Rights in relation to the freedom of the press. I mentioned section 1, subsection 8 of Canada's Bill of Rights.

What I don't understand is how the OPP is pursuing certain actions in relation to the confiscation of this material, while at the same time applying the principle, the very good and accepted principle, within Canada's Bill of Rights, which is the freedom of the press.

I was completely surprised, and I am going to report on an article in the London Free Press which states what the OPP has been doing. The newspaper initially denied the negatives of published and unpublished photos of the March 14 picket line incident. The 157 negatives were later turned over when the police came with a search warrant, but the company has decided in future strike situations to destroy negatives of pic-

tures not used in the paper or not being held for the next edition.

This is contained in the article, which I am quoting, Mr. Chairman: "We regret that members of our staff are put in this hazardous situation by the police. We regret being used as agents of the police against our will," and that is what in fact the police are doing by confiscating this material.

Taking into consideration the action initiated by the OPP, you are, by doing this one thing, killing an important principle in Canada's Bill of Rights, which is the freedom of the press.

I would like to have an answer. When the commission is giving search warrants to the OPP officers and orders to confiscate this particular material, where does the freedom of the press stand? Don't you agree with me that, in fact, what you are doing is breaching this important principle incorporated within Canada's Bill of Rights?

**Hon. Mr. Kerr:** Mr. Chairman, I would like to comment on this and I am sure the commissioner may also want to do so.

I can go back, as I indicated before, and say it is the duty of the police to protect persons and property and enforce the law. There is really no confidential relationship attaching to photographs taken by representatives of the media. The simple fact is, the media are in possession of evidence which may assist in the detection and prosecution of offences. If the photographs or if the tapes will assist in doing that, it will assist the force in bringing to trial those people who have committed offences.

As I have indicated in my correspondence to the chairman and publisher of the London Free Press, these are exceptional circumstances. The police occasionally have their own film people there. Usually, when there are sufficient police on the scene, they are able to gather sufficient evidence for use in court if they feel charges are being laid.

There are usually enough eyewitnesses, shall we say, or on the spot evidence resulting from the involvement of some person and a police officer where an offence has been committed, that it's not necessary to require photographs from the media or tapes of any kind.



It's just a matter of carrying out their duty. It's not a question of confiscation, really. This has to be done if the particular owner of that photograph or tape is not prepared to lend that information voluntarily to the police for a particular purpose. Then the police will obtain a subpoena. Of course, by way of subpoena, they have to justify their request. It is my understanding that in many cases a photograph would be made or a copy would be made of the photograph and the original returned to the owner.

I don't think that it is in breach of any section of the Bill of Rights. It is a question of acquiring sufficient evidence in the prosecution of an offence. I'm not aware, as a result, of this being done on a number of occasions. I must say it's not just the OPP; the metropolitan police forces in this province have done this from time to time and certainly the RCMP has. I'm not aware that it has been challenged in the court or otherwise on the basis of a provision in the Bill of Rights. As I say, this is not a regular thing. This is not a thing that the police necessarily want to do. They want to rely on their own evidence, first-hand, but where it's necessary, where charges have been laid, the crown attorney naturally will want as much evidence to prosecute an offence as is available. I don't know if the commissioner wants to add to that or not.

**Mr. Graham:** I might just add that in the cases referred to by Mr. Lupusella, search warrants were obtained after consultation with Crown Attorney Chaloner, and the exhibits were taken back to the justice of the peace under the authority of the Criminal Code. The justice of the peace permits the police to hold them for 90 days automatically. If an extension is required, the police go back to the justice of the peace and seek one. If the trial commences then they are entered as exhibits, if admissible, and it is the duty of the court to decide what disposition should be made of them afterwards.

**Mr. Ziemba:** Supplementary, Mr. Chairman, if I may: The media take pictures at the picket incidents. The police also take their own pictures, and while the police have access or obtain the media's pictures and tapes, it does not work the other way around. It seems to me the Solicitor General should be prepared to make available to people that are accused of committing an offence on a picket line that information, the films or pictures taken by the police that might be beneficial to their cases. It's the flip side to your argument, Mr. Solicitor General.

**Hon. Mr. Kerr:** Quite so. I am sure that's so. The police would not voluntarily give up photographs that may help the defendant, for example, or even some citizen who is laying charges. If there is not voluntary co-operation the subpoena process is available to that person as well. The police have no more right to privacy, to that information, so far as I'm aware, than has a television station or a newspaper.

**Mr. Ziemba:** Could I ask the commissioner, has that ever happened? Has a citizen ever asked you for films of an incident on a picket line?

**Mr. Graham:** Not to my knowledge. You know, we haven't had much experience until recently.

**Mr. Chairman:** I'm going to give Mr. Stong a supplementary on that.

[12:00]

**Mr. Stong:** Mr. Chairman, just to follow up this line of questioning, I recognize the fact that there are provisions under the Criminal Code and in common law for accused persons to get orders from the court to have the crown provide particulars of any charge, including specifics. An accused person may want to assist himself in his defence, so that provision already exists in law. What I am concerned about is the procedure—and I don't want to fetter the crown in any way in obtaining evidence for the purpose of prosecution.

However, when you come to pictures and you are going to the London Free Press and other newspapers, do you confiscate the negative as well as the print and would you be satisfied to give the newspaper a chance to provide you with a print, so that it can retain the negative? This seems to be what the problem is.

**Mr. Graham:** Yes, we co-operate with the newspaper people. First of all we go and request the print or the negative, or both. If they will give them to us voluntarily, we take them and return them later on after using them ourselves.

**Mr. Stong:** You pay the press for them when they print them.

**Mr. Graham:** Yes, and we pay the press.

**Hon. Mr. Kerr:** You know it has to be adjudged a true copy.

**Mr. Stong:** Yes, right. I am just wondering whether in fact the negatives from the London Free Press and the Windsor Star have been returned at this point?

**Hon. Mr. Kerr:** In actual fact, they did make a copy of every negative in this case.

**Mr. Stong:** And were the originals returned? Have they been returned yet?

**Hon. Mr. Kerr:** They retained them. They retained the originals.

**Mr. Stong:** Who retained them?

**Hon. Mr. Kerr:** The newspaper.

**Mr. Lupusella:** They cannot publish the content of the material, is that correct?

**Hon. Mr. Kerr:** They could publish it all right.

**Mr. Graham:** You haven't been reading the Free Press lately.

**Mr. Stong:** I wasn't aware that there was any ban on that. My concern was the return of material once the police had taken true copies of it, and in fact that has been done.

**Hon. Mr. Kerr:** That's right.

**Mr. Lupusella:** To continue the topic, I want to emphasize the fact that the Solicitor General stated it was for the sake of protecting property and lives. I see some sense of inconsistency. There is some anomaly in applying two principles—on one side, Canada's Bill of Rights and on the other, the confiscation of film and negatives.

I would like to remind the Solicitor General that in the past few months we had an opportunity to take a look at the activities of the RCMP at the federal level, and for the sake of national security even the RCMP got involved in illegal activities.

I am just wondering if the same principle is applied here in the province of Ontario so that just for the sake of protecting property and lives, the OPP is breaching this important principle, Canada's Bill of Rights.

**Hon. Mr. Kerr:** I think the honourable member should be very careful and be very clear when he is making his analogies or comparisons. There is no question of the OPP being involved in illegal activities here, whatsoever.

It has been said that if these documents are not available on a voluntary basis from the media, then the police forces in this province are required to obtain a subpoena or a warrant, whatever you want to call it, authorizing the force to obtain these documents. There is no question of any illegal activities whatsoever.

**Mr. Renwick:** Would you mind my interrupting just for a moment? My problem is that my colleague, the member for Algoma (Mr. Wildman), has to leave to go back. He is responsible for our response with respect to native peoples, and we wanted to raise the whole question of policing on the reserves and in the northwestern part of On-

tario. Would it be possible to agree that we will not deal with that matter today and will deal with it on Wednesday so that Mr. Wildman can be here? That's all.

**Mr. Chairman:** Fine. I believe Mr. Lane had the same plane to catch so maybe you both want to raise that on Monday. I suggested to him that it would be more appropriate under 1605 anyway, but he could conceivably have brought it up under this item, so I assume that when we get to 1605 we can use a certain amount of flexibility since you did give us notice that he wished to raise it under this item.

**Mr. Wildman:** It is not just constables, Mr. Chairman. It is also the OPP itself.

**Mrs. Campbell:** I just wanted to ask the Solicitor General if it is not a fact that, while we have a Canadian Bill of Rights, and while it is a principle enunciated, is there perhaps some confusion that it has some statutory validity or would you agree that it does not, so that we can then deal with the matter of Mr. Lupusella's concerns about any breach of the Canadian Bill of Rights? I don't think it is fair to leave it in limbo at this point.

**Hon. Mr. Kerr:** Looking at the experience of the Canadian Bill of Rights, since that great statesman, the Right Honourable John George Diefenbaker, introduced that in the House, it has been a part, I would think, of the—

**Mrs. Campbell:** He's a great Canadian and you repudiated him. What a shame. But go on.

**Hon. Mr. Kerr:** It would appear that there is a question from time to time as to whether or not it does have statutory validity. I am aware of one or two cases where the Supreme Court has referred to it and it would appear that other legislation has been paramount over and above the provisions of the Bill of Rights, which is unfortunate. So whether it is a declaration, a charter or a statute is sometimes confusing, but I am just—

**Mrs. Campbell:** Does it not have the same status as those matters to which Canada is signatory as a member of the United Nations and, of course, specifically with reference to the status of women, but which it does not feel it is important to pursue, notwithstanding the agreements which have been entered into as a signatory nation?

**Mr. Stong:** I might say, Mr. Chairman, dealing with the Canadian Bill of Rights, the milestone case and the decision under that was the case of Joseph Drybones, who was prosecuted as being drunk off the reservation, and was also prosecuted under the Indian Act. The Bill of Rights took precedence over the Indian Act and said that he could not be

prosecuted and face double jeopardy in that regard. So in that way the Bill of Rights has been given teeth by our court, the highest court in our land, and—

**Mrs. Campbell:** Not where these go. Not in this situation.

**Mr. Stong:** No, not in this particular case, so it has to be interpreted as each case arises.

**Hon. Mr. Kerr:** That is right. It seems to me there was a similar case to the Drybones case where the decision was diametrically opposed, and they were able, in some way, to distinguish between the Bill of Rights and the common law in that case.

**Mrs. Campbell:** Mr. Chairman, I didn't want to belabour it, but I felt that Mr. Lupusella thought it had the full force and effect, and I don't think that is the situation. That was all I was saying in this case. It seems to be open.

**Mr. Renwick:** I wanted to ask a couple of questions just on this point. I am quite certain, commissioner, that you were scrupulous in following the proper procedure with respect to the confiscation or the seizure of the documents. What bothers me about it is the system itself. First of all, I don't quite understand why a request wasn't made to the London Free Press for what you needed, or maybe it was. That's my first point.

My second point is, I'm always concerned, as most of us are who practise in the provincial criminal courts one way or another, about the closeness, about the friendly relations that develop between the crown attorneys, the justices of the peace and the police and so on.

I'm really saying this part of it to the Solicitor General. The procedures for search warrants are such that it tends to become easy for the police to get one. They'll discuss it with the crown and show the crown the evidence, they go to the justice of the peace and discuss it, and the justice of the peace is sure the police are fine and agrees to issue it. I'm inclined to think, Mr. Minister, that you should seriously look at the essential requirement of adding to the burden of work of the county court judges, in requiring that that kind of application be made to a county court judge, where there's some greater sense of distance between those who are involved.

Search warrants are an intrusion, search warrants do cause severe tension when they're issued and I think that the process should require a greater distance and a clearly perceived understanding that the justification exists for the events. I'm really asking the commissioner the first question: did you ask

and were you refused? If not, why didn't you ask? I'm asking the minister the other question.

**Mr. Graham:** Mr. Chairman, and Mr. Renwick, there was a request made in the first instance. The reply was, "You should have a search warrant. Come back with a search warrant and we will release the material." That was done. Regarding the familiarity with the justices of the peace, there is a remedy if the person believes it to be illegal, by going to weekly court and having it set aside, I understand. In this case, the question has been asked, why didn't the police take their own pictures? This was one of those busy days and we didn't have enough photographers to take all the pictures that would afford evidence—

**Mr. Renwick:** Well, we would have been criticizing you if you had been taking pictures just at random of the picket line. You can't win on that one, commissioner.

**Mr. Chairman:** I believe one of the members has a point of privilege, but before he raises that, I feel Mr. Kennedy has been waiting a long time and I would like to give him the floor.

**Mr. Renwick:** I had asked one further question of the Solicitor General, Mr. Chairman.

**Hon. Mr. Kerr:** Mr. Renwick had indicated that sometimes the justice of the peace and the crown attorney become a little too cozy with the police, that it's too easy to get a warrant or a subpoena. I really don't want to comment on that. Certainly the justice of the peace has to have sufficient reasons to issue a warrant. We've seen the situation that has been discussed as a result of certain RCMP activities where open warrants have been used, where really there's almost a continuing one, and the police just fill in the particular incident to justify the use of that warrant. I'm not aware of that practice being done here at any time.

[12:15]

I think there is an attendance each time by the police before a justice of the peace or in court. For example, I understand in Toronto in weekly court that warrants can be questioned. There is a remedy. For example, a newspaper may question whether or not the warrant has been issued invalidly or improperly in any way. You are asking I suppose if the process or the procedure of the Judicature Act should be amended so that these applications have to be made to a county court judge.

**Mr. Renwick:** Just the search warrants.



**Hon. Mr. Kerr:** That's something that we should probably consider, as long as it doesn't involve a great deal of time. Time is of the essence, as you know.

**Mr. Renwick:** Well, there are 120 county court judges; you ought to be able to find one fairly quickly.

**Mr. Kennedy:** Mr. Chairman, most of my questions I think have been answered in the past but I have a couple that I would like to ask the commissioner. First, is there a difference between riot gear and crowd control gear?

**Mr. Graham:** No, it is just the terminology. We refer to it as crowd control gear. Others like to call it riot equipment.

**Mrs. Campbell:** Combat.

**Mr. Kennedy:** How many categories of equipment are there then? There are the regular police uniforms as we know them. What else?

**Mr. Graham:** There is crowd control equipment, and there are the summer and winter uniforms, of course. As far as scuba diving equipment, air patrol equipment—

**Mr. Kennedy:** Of the riot gear or crowd control equipment in use, were all the pieces of equipment present and used at this time?

**Mr. Graham:** No, we didn't have the shields there. The shields are for body protection. They are carried in front.

**Mr. Kennedy:** So that is the only added piece of equipment that might be used, and then they are fully equipped for deployment under any situation?

**Mr. Graham:** We had no tear-gas canisters, nor tear-gas guns nor anything of that nature which is sometimes used.

**Mr. Kennedy:** Thanks. My second question is perhaps to the minister. The minister mentioned the cost to date, which I think was a couple of weeks ago, as \$1.1 million or \$1.2 million. I presume that a great part of this is because of the numbers of persons involved, both picketers and police. What is involved? I understand it is an injunction but could you explain what would be involved in reducing the numbers of personnel of both picketers and crowd control police to reduce this cost and still have the process as it is, ongoing?

**Hon. Mr. Kerr:** As far as the police are concerned, we have gone into that quite extensively. The police are assigning men to that particular situation based on the information and intelligence they receive from time to time as to the number of people who may be reinforcing the picket line, depending on the size and type of the crowd.

As far as the number of pickets is concerned, the injunction route is available, I would think, either to the company or the government as the owner of that park, because the pickets have in fact been affecting more than just the Fleck plant. That remedy is open to them, and for some reason or other, in spite of requests, they have chosen to ignore it.

**Mr. Kennedy:** Mr. Minister, it is also open to you as I understood what you were saying; to government?

**Hon. Mr. Kerr:** Well, I might think probably more particularly the Ministry of Industry and Tourism.

**Mr. Kennedy:** Could you discuss this, because I can see the fluctuation in numbers of people involved would do the same with respect to costs? If there were some stability to the numbers there would be stability to the costs and this would assist in keeping them at a reasonable level. If two weeks ago it was \$1.2 million, and it's ongoing, we're going to be up \$2 million and who knows what in costs. Could you not re-examine this with a view to bringing in some order and stability?

**Hon. Mr. Kerr:** All I want to say, and maybe the commissioner wants to add something to this, is that the OPP presence there will only be that which is absolutely necessary, certainly in the future, there is no question about that. As far as the number of picketers is concerned, as I say, we cannot control that. Neither the Solicitor General nor the OPP can control the number of picketers who attend at that site or at that park.

**Mr. Kennedy:** Well, through an injunction procedure, I understand you could.

**Hon. Mr. Kerr:** I just got through saying that the injunction procedure would be available to the company or to the owner of the park, which is the Ontario Development Corporation.

**Mr. Kennedy:** And under that, through any decision that's made, the number of picketers would be stated?

**Hon. Mr. Kerr:** I would assume so. In an injunction process, you have to go to court and the court would decide, based on the representations made to it, and both parties would be represented there. They would have to make very valid submissions as to why it is in the interests of all the parties to limit the number of picketers without encroaching on the rights of either party. Then the injunction would either flow from that or not. If it flows from that it would indicate the

number of picketers who would be permitted to attend.

**Mr. Kennedy:** If they were reduced to some number, and this occurred, what would you forecast the costs? I presume it's per week or whatever it has been. How much could these costs be reduced if they're going on at the same rate as has taken place? It's a very significant amount of money involved.

**Hon. Mr. Kerr:** Depending on the order of the court, I would say substantially.

**Mr. Kennedy:** You could save a substantial amount of money?

**Hon. Mr. Kerr:** Yes.

**Mr. Kennedy:** How about it if we have a go at trying to do this?

**Hon. Mr. Kerr:** As I've indicated earlier, that request has been made. It's been made from, I would say, about the middle of March.

**Mr. Graham:** Mr. Chairman, the president of the company was approached about an injunction because we would certainly welcome the injunction. It would assist us greatly.

**Mr. Chairman:** I am sorry, I don't understand it. He was approached by you?

**Mr. Graham:** By Assistant Commissioner Lidstone.

**Mr. Chairman:** And encouraged to ask for an injunction?

**Mr. Graham:** To seek an injunction, but the president replied that he'd looked into the matter and it was his legal advice that since the picketers were from outside and not his own people, most of them, they could not get an injunction. That was the legal advice he had been given.

**Mr. Renwick:** He didn't want one. If he really wanted it he would have gone at the start.

**Mrs. Campbell:** Mr. Chairman, I wanted to pursue Mr. Kennedy's questions with reference to the special gear. I took it that his initial question had to do with crowd control, or whatever the terminology is. However, the commissioner went on to discuss other equipment which really had nothing to do with crowd control, and it's under that answer that I would ask him if there is anything special or above normal in this special squad in Waterloo? It seemed to me that seeing their photographs in the newspapers, they were equipped with some unusual equipment as opposed to the normal equipment of the OPP officers. Is that correct?

**Mr. Graham:** It appeared to me to be that correct in the press but I am not familiar with the Waterloo equipment.

**Mr. Chairman:** We understand it's the Waterloo regional force.

**Mrs. Campbell:** Yes, yes, I am aware of that, but the commission has some concerns I would think in that subject. May I just add this, could the minister tell me if he tabled the letter which my colleague, Mr. Breithaupt, asked him to table and which I understood he undertook to table today? Is it available to this committee at this time?

**Hon. Mr. Kerr:** There was some mixup in the procedure, Mrs. Campbell. I was always under the impression that you would table information after the question period and because I had to be at a meeting until 10:30, I was then told, "No, it should be done before question period at about the time that statements are made," so I have the correspondence here. I intend to table it Monday. Certainly we can deal with it next Wednesday.

**Mrs. Campbell:** Well, could it be available to us here because it seems to me that when we are discussing the commission—

**Hon. Mr. Kerr:** I think that would probably be more appropriate in 1603 anyway under the Ontario Police Commission, which we still have to deal with, or you can talk about it Wednesday.

**Mrs. Campbell:** Fine.

**Mr. Stong:** Mr. Chairman, I don't have a supplementary on this issue but I did want to get back to what we initially started with and that was the confiscation of the films. I understand, Mr. Minister, that you received a letter—I haven't seen it or even a copy—from the Ontario News Photographers Association, wherein they expressed concern that by virtue of these pictures being confiscated and seized by the police, that opened them up to greater threat from picketers on picket lines because they felt that their safety would be jeopardized by their attendance at the scene. The picketers may become violent towards them because they wouldn't know what was going to happen to the pictures that were being taken.

What is your response and what policy are you following and have you issued any directives? It would seem to me to be a good argument for the purpose of police on these picket lines. However, what is your policy? What directives have resulted as a result of that letter?

**Hon. Mr. Kerr:** This was one of the objections raised also by the publisher of the London Free Press. Maybe I should just read the paragraph of my reply that deals with that.

**Mr. Stong:** Fine.



**Hon. Mr. Kerr:** "I have great difficulty accepting the contention that these seizures increase the potential for violence against newspaper photographers. Surely any action by picketers against newspaper photographers in these situations will arise out of the union's desire to avoid adverse publicity. I cannot imagine that the possible seizure of photographs or negatives by the police at some future time would be a factor. I might also point out that the police have a duty to protect representatives of the media at the scene of such newsworthy events, and it is my understanding that the police do make every effort to accommodate and assist the media in such situations."

Then I go on to talk about police photographers in the next section, but I think in spite of what I have said here, that that could be a factor, but not so much as a result of a seizure and use in court as evidence. I think there's just a natural objection at a time like that, and particularly if it's a volatile situation when there is some scuffling, for anybody to be photographed even if it just means being on the 11 o'clock news.

[12:30]

I think this in fact was an incident that took place at Huron Park. If I remember correctly, I think a photographer early in March, before any seizure, was, shall we say, "roughed up." It seems to me he was standing on top of a car or something, and that car was in the way, we'll put it that way, and there was some scuffling. Whether it goes through the mind of the picketer, "Hey, this may be used in court against me," I rather feel it is just the natural objection to being on the record, being photographed, that may result in the photographer being subjected to some type of scuffling.

I question whether the whole process of seizure for use in court in itself puts that photographer in any more danger.

**Mr. Stong:** What you read us initially was your response to the Ontario News Photographers Association?

**Hon. Mr. Kerr:** This was a response to Mr. Jackson; yes, it is. I thought it was the Windsor Star, but it was the Ontario News Photographers Association.

**Mr. Vice-Chairman:** With the consent of the committee, Mr. Mackenzie has a point of order or privilege, or both, dealing with the record from last Wednesday's hearings.

**Mr. Kennedy:** The chairman asked that that be deferred until I had had my questions.

**Mr. Vice-Chairman:** I did hear him say that, but it will only take about two minutes and then Mr. Mackenzie won't be delayed.

**Mr. Kennedy:** The point of my intrusion now is to inform the chair that my questioning is finished.

**Mr. Mackenzie:** Just for the record, and to clear up what could be one unfairness that came about as a result of the testimony on Friday. Following the testimony, the two and a half hours that we heard on Friday, I had occasion to go over again everything that was said and the questions that were asked here, with the girls who were on the picket line, the nine girls from Fleck.

One question that I asked of Superintendent Garry, I think he might take an unfair rap for. Superintendent Garry was asked if in fact the order given to advance on the picket line was not "Get them," or "Get 'em"—there's a dispute over that—and then was questioned by one of the officers and said, "You heard my orders." Those were clearly given; the girls can identify the officers. But that order was not given by Superintendent Garry. It was one of the other officers in the squad, and I thought that that should be on the record and that the record should so show.

The question I asked of Superintendent Garry was, "What was the actual order you gave?" I don't know what actual order he gave in initiating the squad to go into action, but he did not make that statement. That was made by one of the other officers in the squad.

**Mr. Stong:** Mr. Chairman, is Mr. Mackenzie aware of any repercussions against Superintendent Garry as a result of his question and the superintendent's answer?

**Mr. Mackenzie:** No, none whatsoever. Because it was one of several questions and didn't really deal with the main direction of the questioning, I thought that because that question was asked that that kind of an order would be a reflection, and it should be put on the record here as corrected. Superintendent Garry did deny it at the time and I just wanted to verify that the girls have confirmed that it was not Garry who said it.

**Mr. Chairman:** Thank you, Mr. Mackenzie. I'm sure Mr. Garry also appreciates what has been done. The next on the list—

**Mr. Lupusella:** Mr. Chairman—

**Mr. Chairman:** Don't be quite so anxious, Mr. Lupusella, we'll take care of you.

**Hon. Mr. Kerr:** Please inform us when you're through.

**Mr. Lupusella:** Thank you, Mr. Chairman. To conclude my remarks about the seizure of press films and the negatives, I remain with



the position that it is unfair, and I am sure the media people feel the same way; it is unfair for the OPP and the police to use the media as their unwilling agents. I want to emphasize this principle because I don't think they are pleased with what the OPP is doing.

**Hon. Mr. Kerr:** It is rather ironical that of the few times of which I am aware when there has been the seizure of film or photographs, there have been just a very few police officers at the scene. Because there wasn't enough eyewitness evidence, this additional information was required. So there may be some advantage from your point of view.

**Mr. Lupusella:** Mr. Chairman, I would like to open a different topic. I am quite interested in finding out the kind of relationship existing between the minister and the Ontario Provincial Police. I am making particular reference to the Fleck strike. It seems to me that your opening statement on the previous sitting, Mr. Graham—

**Mr. Stong:** What strike is that?

**Mr. Lupusella:** The Fleck strike. On April 7, your officials met with the Solicitor General. I got the impression that Mr. Garry was really crucified as the person held responsible for the intelligence strategy which he proposed dealing with the strike situation. Who was aware of this particular intelligence strategy? I am sure the Solicitor General was aware, since communication should take place between the Ontario Provincial Police and the minister. I am sure the minister was aware of this particular strategy as well. The commissioner was supposed to be aware of this intelligence and strategy as well and I got the impression that it is unfair to crucify just one person, Superintendent Garry. What is the role of the Solicitor General in relation to the daily operations of the OPP? Did you get in touch with the Solicitor General just on April 7 because in the Legislature we raised the first question on March 7? What is the communication between the Ontario Provincial Police and the Solicitor General?

**Hon. Mr. Kerr:** I would like to answer that question, Mr. Chairman. The commissioner in his statement last Wednesday referred to me in one instance by saying that I had met with officials of the OPP on April 7 regarding the mass demonstration which was to take place on April 12. Dennis McDermott was reportedly going to lead a mass rally at Huron Park and there was going to be anywhere from 1,000 to 1,500 demonstrators. This of course had been escalated by a lot of remarks that had been made in the press. He had just left Quebec where

he had become the new president of the Canadian Labour Congress, and he is a former head of the UAW, so there would be a large number of people at that park.

There was great concern not only in relation to the Fleck plant but to all the inhabitants of the park including the students at the agricultural college and some of the people living in the area across the street. That was the purpose of the meeting that day, and as the honourable member recalls, there was no scuffle, there were no incidents, there were no problems on April 12 in spite of the large number of demonstrators who attended there.

As far as answering the other part of the question is concerned, on a day-to-day basis I would talk from time to time with the commissioner in the event there were incidents. If there were incidents at the morning shift, that would usually be around 7, a document would be sent up to the office for my attention which would indicate the number of passengers on a bus, and the number of passengers in other vehicles. This would indicate the number of workers who entered the plant.

There would be estimates of the number of pickets on the site broken down into female, male, local or outside; if they were from outside, the origin would be given of any of the outside picketers. Then we'd have a breakdown of the number of uniformed police personnel deployed, the number of police held in reserve, and the number of police held in reserve at other locations. Then there would be any information as to any incident, if there were charges laid, the names and addresses of the persons charged. If there were incidents, there would be an explanation of what in fact did take place. These would come up each day relating to that morning's activity at the plant.

So this has generally been my role. I have not attempted to interfere with the police operation. That, after all, is something they are trained to look after, they are on the site and in charge of the operation. Whether or not, for example, the crowd control equipment would be worn would be entirely the decision of the local police, of the OPP. Also the number of men to be deployed there would be, as a result of their information, the decision of the police as well.

**Mr. Graham:** I would just add, sir, that my first report was on March 7, but the big meeting we had on April 7 or April 12 was because we were taking extraordinary measures and drawing in many men. We had our K-19s set up to guard the cars, but not to be used against people. We had items of that

nature we wanted to bring the minister up to date on.

**Mr. Lupusella:** Mr. Chairman, if I may respond to the minister's statement, the reason why I raise this particular concern is that, in my opinion, the Solicitor General should play a better role in relation to the kind of information which he received from time to time about the Ontario Provincial Police.

Do understand, though, that the minister, as he stated, shouldn't interfere in the operation; but what strikes me is the fact that from time to time, when we raise questions in the Legislature, the first reaction of the minister is, "Well, I'm not aware of the situation," therefore I should get in touch with the Ontario Provincial Police.

[12:45]

**Hon. Mr. Kerr:** No, Mr. Chairman. There had been very few questions up until about May 24 on the Fleck situation. I had indicated the information I had in relation to the incident on May 24. My daily sheet indicated that one person had been injured. I think that person was the subject of a photograph in the morning Globe and Mail, as a matter of fact. He had fallen down and two other picketers had fallen on top of him, and he was injured and was given some medical attention. That was the amount of information I had as to any incidents that took place that day. It was subsequently indicated by the OPP in a report, I think probably at this committee, that one woman picketer had been accidentally hit by the billy of a police officer.

The member for Dovercourt referred to the number of allegations that were made, either by the picketers or set out in the press, that I did not have answers for—if those incidents had taken place. Those were only allegations. The member for Dovercourt, I suppose, received most of those by reading the paper or any submissions that might have been made to his office by picketers. They were allegations which at that point I was not prepared to confirm were accurate. Therefore I indicated I would get further information from the OPP to see if they were true and to report to the House on them.

**Mr. Lupusella:** If I may reply, and I hope the Solicitor General understands what I'm trying to arrive at: the Fleck situation is just an instance which I've been emphasizing. We are talking about the daily operations of the Ontario Provincial Police. I still don't understand the role you are playing and the kind of communications device which exists between the Ontario Provincial Police and the minister. I would like to have an answer.

You stated previously that from time to time you get in touch or the commissioner gets in touch with you to give you the overall situation about daily activities. I don't know how often this keeping in touch occurs, and the role you are playing, which of course is not to interfere in the operations they are establishing around the province, or the intelligence plans, because they are the experts. I don't understand your role as minister and what kind of device exists between the minister and the Ontario Provincial Police in relation to the daily operation of the police force. I really don't understand that role and what kind of role you are playing.

As far as I know, the role which you should play, and I'm just expressing my personal opinion, is that the Ontario Provincial Police has a duty to inform you about the daily operations which are taking place around the province. I disagree with you when you state that from time to time there is some sort of approach between the minister and the Ontario Provincial Police. I would like to have an answer to that. What kind of role—

**Hon. Mr. Kerr:** I'm a little confused in the honourable member's statement of whether he's talking about the daily operation of being involved in labour disputes or in traffic control or looking after Mosport or laying traffic charges or parking tickets.

**Mr. Lupusella:** No.

**Hon. Mr. Kerr:** Certainly that's what you imply. You're talking about being informed of all daily operations around Ontario. Those are your exact words. As I say, the Ontario Provincial Police has between 5,000 and 6,000 uniformed personnel all over this province operating in various spheres, which I'm sure we'll go into during these estimates; whether it's the money available for new equipment, a question of expanding the OPP, of contracts or a question of Indian policing. These are all things that are discussed regularly with the commission.

If you're really talking about incidents where there are problems such as the Fleck situation, where they are of extreme importance, where they're extraordinary, where they are front-page news regularly, this is, of course, when the commissioner and I and other senior officials are in constant conversation about the situation, as we were, for example, in the meeting on April 7. I don't attend the site of these problems. I am not there to make a decision on the number of men who should be deployed or how the crowd should be handled or anything of that nature. I think if the honourable member is



suggesting that, he really doesn't know too much about police operations.

**Mr. Lupusella:** I didn't state that.

**Hon. Mr. Kerr:** That's what he's attempting to imply here. He's trying to shift the blame to the minister.

Of course, the minister is the political representative in the government of the police forces in the province. He answers to the Legislature for the activities of the various police forces. When there is any question as to some type of operation or the jurisdiction of the OPP in relation to the activity of one officer, for example, or dealing with a particular problem—whether it involves labour or native people or anything of that nature, or relations with the federal government—these of course are things that the minister has to answer for in the Legislature.

As far as the day-to-day operation of the police is concerned, I'm sure the honourable member would be the first to object to any political interference.

**Mr. Chairman:** Mr. Lupusella, I'll give you one more minute and then I'm going to allow Mr. Eaton to ask a question that he's been waiting to ask for a long time.

**Mr. Lupusella:** Okay, Mr. Chairman. Of course, I didn't make particular implications in a way which the minister described. I deny the positions which have been expressed by the Solicitor General. In any event, I would like to raise a particular question. Since March 7 up to now, how many meetings have you had with the commissioner in relation to this particular incident, the Fleck strike?

**Hon. Mr. Kerr:** I would say at the most, two.

**Mr. Lupusella:** Just to deal with this particular situation?

**Hon. Mr. Kerr:** Yes.

**Mr. Lupusella:** So you were not aware of the intelligence strategy which was implemented by Superintendent Garry? Is that correct?

**Hon. Mr. Kerr:** On May 24?

**Mr. Lupusella:** Yes.

**Hon. Mr. Kerr:** No.

**Mr. Chairman:** I wonder if I could clarify the minister's answer. You said at the most two. Does that mean that you had two meetings?

**Hon. Mr. Kerr:** Yes. Certainly the one on April 7 and I believe there was an earlier one around March 17, when there was some problem down there with crowd control and

a number of strikers from outside. You were concerned, I believe, about the type of weapons that it was reported may be used by some of the picketers, the aerosol can that you described and the lighter, and also a baseball bat reinforced with nails or something like that. You were quite concerned about that and you showed me some photographs and you wanted me to see that personally. Otherwise, we've communicated, outside of the April 7 meeting, by phone every day.

**Mr. Lupusella:** In concluding my remarks, I don't think the Solicitor General is providing the kind of leadership which I would like to see of the police force. You didn't answer my question. I don't think two meetings are enough to deal with a problem like the Fleck strike.

**Hon. Mr. Kerr:** How many should there be? Six? Seven?

**Mr. G. Taylor:** Any more and you would call it interference.

**Mr. Lupusella:** I don't know how many. I think that this particular incident got wide publicity in the media—

**Mr. Chairman:** Order. I think the point has been made. Mr. Eaton.

**Mr. Eaton:** I just wanted to ask a question in regard to the rights of people to be around the plant in the picket line, for instance. I understand some of the union members asked that certain people be removed from the picket line because they didn't like to be associated with them. It's a public place. Does anyone have the right to be there?

**Hon. Mr. Kerr:** Yes.

**Mr. Eaton:** It seems rather ironic that some of the union members feel the police should take upon themselves to remove from the picket line area people whose presence they find objectionable, but they don't think the police should be around for some other reasons, to protect other people's public rights.

**Hon. Mr. Kerr:** That's a bit of a conflict, to say the least. But if people are behaving themselves, if they are picketing as provided by the law, regardless of who they are or what organization they represent, you wouldn't single those people out to be removed, would you?

**Mr. Graham:** No, we would not.

**Mr. Chairman:** Is it not true, commissioner, that on many occasions the organizers of picket lines often advise the police of certain people that may not be connected with their organization, or even members, who may



behave contrary to the way in which that organization wants to conduct its picketing in a lawful manner; and that on the advice of these organizations you sometimes are more cautious of watching those people in case trouble does erupt?

**Mr. Graham:** That's true.

**Mr. Eaton:** They may watch them, but they certainly don't have the right to remove them at the request of the picketers. That's what I wanted to clarify.

**Mr. Chairman:** I do have some information for members of the committee. For next Friday we have now confirmed that we will be scheduling Bills Pr13 and Pr26. Those are the London and Thunder Bay bills. Toronto is not willing to proceed at this time because its lawyer, who is familiar with the bill, is in the hospital.

Shall 1604 carry?

**Mr. Stong:** No, not yet, I'm not finished.

**Mr. Chairman:** Mr. Stong is not finished. I would remind the members that—

**Mr. Stong:** I don't mind, Mr. Chairman. However, having the general discussion on 1604 and 1605 together, because we've been doing that anyway, when we come to the

vote we can pass them both together, I would suspect.

**Hon. Mr. Kerr:** We've only got about three hours left.

**Mr. Chairman:** You have exactly three hours and five minutes left, and there will be a great number of questions on 1605, particularly item 2, I would imagine. We also have to deal with 1603.

**Mr. Eaton:** That's strictly OPP. Does that include the native police, too?

**Mr. Chairman:** That will be dealt with under item 1, I believe, of 1605.

**Mr. Eaton:** That's upcoming.

**Mr. Chairman:** That is upcoming at our next session on Wednesday.

**Mr. G. Taylor:** Mr. Chairman, are we going to need any further attendance of the Ontario Provincial Police members for these other votes?

**Mr. Chairman:** Oh, yes.

**Hon. Mr. Kerr:** There's a certain amount of overkill, but I think we need some of them.

**Mr. MacBeth:** He's afraid we might get out of hand.

The committee adjourned at 1:01 p.m.

## CONTENTS

---

Friday, June 2, 1978

Ontario Provincial Police, Management and support services program .....	J-167
Office of the commissioner .....	J-167
Adjournment .....	J-177

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
Eaton, R. G. (Middlesex PC)  
Kennedy, R. D. (Mississauga South PC)  
Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)  
Lupusella, A. (Dovercourt NDP)  
Mackenzie, R. (Hamilton East NDP)  
Philip, E.; Chairman (Etobicoke NDP)  
Renwick, J. A.; Vice-Chairman (Riverdale NDP)  
Stong, A. (York Centre L)  
Wildman, B. (Algoma NDP)  
Ziemba, E. (High Park-Swansea NDP)

**From the Ministry of the Solicitor General:**

Graham, H. H., Commissioner, Ontario Provincial Police









# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Solicitor General



**Second Session, 31st Parliament**

Wednesday, June 7, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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# LEGISLATURE OF ONTARIO

WEDNESDAY, JUNE 7, 1978

The committee met at 10:05 a.m.

## ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (concluded)

On vote 1604, management and support services program, office of the commissioner.

**Mr. Chairman:** We have exactly three hours and five minutes left in these estimates. I would suggest to the members, with their permission, if we could sit until 1:16 p.m. we could conclude these estimates today. This would be of great help to Mr. Drea and the Correctional Services critics in handling their estimates because we are short one session in order to be finished with those by June 23. That would eliminate the necessity of our sitting some Wednesday afternoon and having to get permission to do so.

We are on vote 1604, management and support services program. We were still on the first item, office of the commissioner. I would remind the members that we also have 1605 and that we have stood down 1603. That's an awful lot of work to do in three hours and five minutes. Do I have any substitutions? Mr. Lupusella.

**Mr. Lupusella:** I am substituting—

**Mr. Wildman:** You are substituting for Mr. Swart.

**Mr. Chairman:** Okay, I don't have a written substitution on that, Mr. Lupusella.

**Mr. Lupusella:** Maybe I can get in touch with him.

**Mr. Chairman:** The ruling is that we will accept written substitution up to 15 minutes after we have started, so you can get Mr. Makarchuk to write out a substitution.

**Mr. Lupusella:** Okay.

**Mr. Wildman:** Mr. Chairman, I want to raise with the minister and the commissioner the very serious allegations that were raised in a letter by the Canadian Civil Liberties Association to the Solicitor General on behalf of the Lake of the Woods Pow Wow Club from the Kenora area. I understand the civil liberties association visited some of the reserves in that area and received 20 affidavits from people in the area, treaty natives, who raised some rather alarming allegations about

police practices, both OPP and local police in the area.

Unfortunately, however, the association, in writing to the minister, indicated that it was unable to supply names to the police or to the Solicitor General and as a result all it could do was list the allegations and descriptions of problems that occurred according to the affidavits without substantiating that with names. They also listed a number of questions that were raised with them by people on reserves without being prompted at all by the civil liberties association representatives.

It indicated to them that if the native people were raising these questions about police practices there obviously was some reason for these questions, and perhaps it was the way police operations were taking place that led to a number of rather alarming questions from the native people to the civil liberties association. They wrote to the Solicitor General requesting an investigation and requesting that certain instructions be passed on to the local police in the area in relation to their practices, and also in relation to trying to improve relationships with the native community in the Kenora region.

I will just talk about a few of these. I realize the problem when you are not supplied with names, but there were questions raised regarding the vulnerability of private homes to police intrusion without warrants, and suggestions that on a number of occasions police had entered homes using force to force doors—I don't mean against people. I am talking about using force against the door.

**Mr. Chairman:** I wonder if I can have some order here, please. I find it difficult to listen to the member with conversations going on. Before the member continues, I wonder if I could introduce the people at the microphones, both for the benefit of the member who is addressing his questions and also other members of the committee. On my left here is Detective Inspector Ron Kendrick. All of you know Commissioner Graham and Deputy Commissioner Erskine.

[10:15]

**Mr. Wildman:** Thank you, Mr. Chairman. I understand that a number of suggestions in this letter that there had been unwarranted

intrusions resulted in the laying of charges for intoxication in the home. We're talking about intoxication in private homes. Also, it was suggested that on some occasions the person who was charged with being drunk was asleep at the time the police entered the home.

There are also some other even more serious allegations that taxis headed to the reserve were stopped by police cruisers and the individuals in those taxis were asked to get out of the taxi and they were searched for possession of bottles, including the search of females. There's one suggestion, apparently, on one of the affidavits talking about searches of females by male officers suggesting that a female was told to raise her dress above her head, and I don't know what that entailed, frankly.

There are a number of other allegations regarding treatment in jail in the area: individuals alleging that they were pushed and treated roughly while in jail; were not given the reasons for their arrest; not told why they were being taken to jail. One even alleges having water poured on him during questioning. I think the most alarming thing is the fact that according to the civil liberties association the reason they couldn't give the names was because the people in the area feared retaliation.

I'd like to deal with some of the allegations, certainly, but I'd also like to deal with the whole question of the relationship between the police and the native community if there is this fear. I know it's difficult for people of different cultures to communicate and to understand one another, especially when you have the very serious social problems that we have on many of our north-western Ontario reserves.

There is a series of letters. The Solicitor General replied to the civil liberties association and the Pow Wow Club indicating that he felt the allegations were very serious and he was asking the OPP to investigate. He was hoping for co-operation between the police, the civil liberties association and the Pow Wow Club in that investigation.

He does point out that in order to investigate adequately they are going to have specific details of the circumstances alleged to have occurred. He obviously didn't want to prejudge the situation, as no one would. He does not agree with the civil liberties association, however, that perhaps it would be a good idea to have an independent investigation of these allegations.

I would like to have some response first to the question of why the Solicitor General does not feel that an independent investigation might be useful in this very serious

situation. Then, I'd like to talk in general terms about some of the allegations, if anything has been found out in the investigation that has been carried on by the OPP and, in general, what is being done to try to improve the relationship between the native community in the Kenora area and the police.

**Hon. Mr. Kerr:** As the honourable member has indicated, there was a letter from the civil liberties association and the Lake of the Woods Pow Wow Club. The letter was signed by the chairman of the association, Mr. Borovoy, and Mr. Morrison of the Lake of the Woods Pow Wow Club. It made all these allegations and refers to about 20 affidavits.

The letter to me was issued to the press at about the same time. As a result of getting this letter I replied and immediately launched an investigation, asking the OPP to look into this and report to me, which they've done on an interim basis. I will have Detective Inspector Kendrick who was part of this investigation comment as well.

However, as the honourable member has said, the letter contained no names of the people making these allegations, no dates when these allegations supposedly took place. It doesn't name any police officer or force that was involved. There are no addresses as to where these incidents took place or whether they were on the reserve or not. This, of course, makes it very difficult for anyone to carry out an investigation. In spite of that, the interim report I have indicates that there was quite a thorough check, both on and off the reserve.

The honourable member asked me why the Solicitor General does not feel an investigation might be useful.

**Mr. Wildman:** Independent investigation.

**Hon. Mr. Kerr:** I'm just not sure how one could have an independent investigation while the information I have mentioned is missing.

My information is that some of these incidents took place one, two, three and four years ago. I don't agree with the honourable member that there wasn't any prompting. As Inspector Kendrick will probably mention, this information was solicited by whoever put this package together.

It wasn't a matter of the native people coming to the civil liberties association and making these complaints. The civil liberties association in their great desire to see Bills 113 and 114 become law in this province, sought out the Indians who may have some complaints against the police so they could be

contained in an affidavit and certain allegations could be made.

I understand from the report I have that about 30 natives were interviewed and they obtained around 15 or 20 affidavits as a result of those interviews. It's very important, particularly if any of these incidents took place on a reserve, to remember first of all that in many cases there are band constables on these reserves.

**Mr. Wildman:** I was going to get to that.

**Hon. Mr. Kerr:** There are also native police who may be involved in, for example, calling either the local police or the OPP, so I doubt very much if many of these incidents took place without the police being called to attend at a situation where there is a problem, where there may be some type of a domestic dispute or some type of altercation taking place, and the police are called in to solve it.

This, in my opinion, seems to be prevalent in some of the allegations that are set out in the correspondence that I have received. These are serious allegations and I hope the motive was, in fact, to protect native people against improper police action rather than an attempt to force the Solicitor General or the government to bring in some legislation dealing with police complaints. You have a fairly sensitive situation in northwestern Ontario. There have been some serious incidents in the past and as a result of that we have started this Indian policing policy.

We have started the whole band constable arrangement which was the request of the chiefs of these various reserves. In Kenora, for example, we have street patrols that involve Mr. Morrison and his Pow Wow Club. These civilian patrols go around the city and when they see any problem—when they see, for example, a native person who is intoxicated, who may get into some type of problem—the street patrol takes some very preventive action and helps those native people.

These patrols are working, I understand, quite successfully. We have the Ontario Native Council on Justice, which has just recently doubled its allotment for this year and which involves the native people, where they are helping native people when they're involved in any charges in court. They're providing them with counsel, they're providing them with assistance not only to keep them out of trouble, to avoid being charged, but after the fact, as well, if they are charged, they are making sure every avenue and every mechanism of justice in this province is available to them.

This has been in existence now for only about a year or so and it's very successful.

To have these charges made, to sort of disrupt in a way some of the good work we're doing and to sort of revive old animosities, in my opinion is very unfortunate.

Detective Inspector Kendrick, would you like to—

**Mr. Wildman:** Before Detective Inspector Kendrick replies, I want to understand exactly what the minister is saying. I understand, certainly, as I said at the outset, the very difficult problem anyone would have in investigating such allegations, when you don't have details of time, place or names. I don't debate that. I agree with the minister. But is the minister casting aspersions on the Canadian Civil Liberties Association and its motives in this? I'm a little concerned that it appears that the minister is saying that this letter is somehow self-serving or that the allegations made were cooked in some way to try to force the minister into bringing in legislation he doesn't particularly agree with or to somehow disrupt the work the police are doing or to revive animosity between the native people and the police.

**Hon. Mr. Kerr:** I haven't said that at all.

**Mr. Wildman:** I think that's a very serious charge if that is what the minister is saying.

**Hon. Mr. Kerr:** No, I'm not saying that these allegations are not serious. They could be very valid and serious allegations. But I would suggest that it would have been much better if the civil liberties association or the members of that executive had come to me directly, had written to me directly and said: "We have some serious allegations here. We have some affidavits pointing them out. We want assurance that these allegations will be treated properly, that there will be no recriminations or any type of mistreatment of the native people because they're making these allegations. We would like each affidavit, as has been in past situations like this, to be investigated. We want the people involved to be interviewed, and we want to get to the bottom of it."

There could have been a much better way of doing this and it would have been less disruptive. As I say, we are dealing with a very sensitive situation. If the honourable member knows anything about the problems in northwestern Ontario, and I'm sure you do, it's important that there be complete trust and co-operation between the native people and the white people and the police authorities and the council within those areas. It's very important.

We've had the odd summer when we've had problems, and one or two major problems have lasted all summer. I'm not ques-



tioning the sincerity of the civil liberties association at all. All I'm saying is if there are some valid allegations, they above all know that you have to have all the facts and circumstances before you can have a proper investigation of those allegations. Would you like to deal with that, sir?

**Mr. Kendrick:** Yes, sir. Mr. Chairman, we proceeded to the Kenora area where we conducted an investigation into the allegations and spoke with representatives of the Pow Wow Club. The—

**Mr. Chairman:** I wonder, Detective Kendrick, if you could just summarize that rather than reading from it. Is that possible?

**Mr. Kendrick:** Yes. We found that the procedure that had been adopted in bringing the—

**Mr. G. Taylor:** Mr. Chairman, on a point of order, I would prefer the officer to put forth the material that he has. The committee has had a great deal of discussion the past week about people who have given what one might describe as incorrect information when they went away from their notes. I heard comments which were disappointing to me from different members when we rampaged against the person giving information. I would hope you would allow the officer to give the information as he so desires and not as you might desire.

**Mr. Chairman:** On the point of order, Mr. Taylor, I'm perfectly willing to allow the inspector to present it as he sees fit. I did take the counsel of the minister, who I'm sure knows his staff better than you do. He seemed to feel that we could save some time by having his capable detective summarize what he was about to read. I assume that the minister knew better than perhaps you and I did and accepted his advice at this moment.

**Mr. Wildman:** Mr. Chairman, on the point of order, it's fine with me either way. I have confidence that the detective inspector can summarize it, but if members would prefer that he give it in full it's fine with me.

**Mr. Handleman:** Mr. Chairman, I would simply like the evidence to be given in the way that the witness wants rather than the way either the minister or the chairman wants. If he feels that he can get his message across in any way he sees fit, I don't think it's up to us to tell him how to do it.

**Mr. Chairman:** Please read it.

**Mr. Kendrick:** The Pow Wow Club representatives in Kenora generally claim a membership of approximately 250 Indian people. Their main concern is the rehabilitation of

their own people in the use or misuse of alcohol. They operate along similar lines, I gather to Alcoholics Anonymous.

Their concern at the time we visited the Kenora area was really a backlash in response to the brief they had put forward to the minister, in that they had rightly or wrongly bypassed the local representatives of the government. These people had, with the judiciary and some of the clergy, co-operated with the civil liberties group in providing information or assistance to them, not knowing the end result would be a brief submitted to Toronto.

This became a secondary concern of ours in the investigation that people were now divided in the community, both white and native, and it was causing some harm and ill feelings. Many Indians came forward with a completely different outlook than had been presented in the civil liberties brief. They were concerned that all the good work and the good communication that had been developed over the past two to three years in police/native relationships would be harmed irreparably.

It was most difficult, as already discussed, and my minister has mentioned, attempting to verify these complaints and allegations because of the fact that we didn't have the necessary facts to proceed. However, because of the most serious view taken by my superiors of the image of our force and, of course, the conduct of our members, we made every effort to more or less follow the representative of the civil liberties association, Mr. Alan Strader, who had visited reserves in the area, and try and associate the allegations with any information we could obtain.

On May 8—pardon me, I was getting ahead of myself, Mr. Chairman.

**Hon. Mr. Kerr:** On May 3, I think.

**Mr. Kendrick:** No, sir, I was speaking of proceeding to the Whitedog Indian Reserve which is near our Minaki detachment. It was considered one of our more troublesome reserves. It has a population of about 750, possibly 800 persons.

**Hon. Mr. Kerr:** On page four of my report it's May 11. I think that was the date.

**Mr. Kendrick:** Yes, sir. I visited with Chief Roy McDonald in connection with these allegations. During my interview with him, and one Laurie Wagamese who is a counsellor and band administrator, Chief McDonald advised that he had no knowledge that the Canadian Civil Liberties Association had been on his reserve previous to our requesting this meeting. He said he had no problems with the police service in the area and

that they had two Indian band constables who were operating on the reserve. The chief was pleased with their operation to that time.

The chief is quite familiar with the complaint procedure. However, the reason that he had Mrs. Wagamese present was that in the absence of Chief McDonald some time ago, Mr. Alan Strader and Rev. John Fulmer of Kenora, had attended at the reservation, apparently uninvited, and had requested of Mrs. Wagamese permission to interview anyone who could provide information to them regarding police abuse.

They were provided with accommodation in the band council building and there they interviewed several people who were present and possibly obtained 10 to 15 affidavits at that time. That's in Mrs. Wagamese's estimation. She further concluded that probably many of these alleged complaints had previously been dealt with. However, she had no knowledge of the actual depositions. Generally, she felt the police service and the conduct on the reserve was fairly good. She was not informed at the time of the possible ramifications of the visit of the CCLA representatives.

As I mentioned, the Whitedog Islington Indian Reserve is one of the more troublesome in the Kenora area.

**Mr. Wildman:** For a good reason too, which I won't go into.

**Mr. Kendrick:** Apparently that is why it was selected by the CCLA for interviews. The allegations referred to in the brief were gone over with Chief McDonald. In many cases he was able to relate them with the particular incident. Along with the assistance of the detachment commander in Minaki who is responsible for that area, Sergeant Barclay, it did become apparent that many of the allegations had been previously investigated, particularly in reference to searching of females by male police officers.

There were two occasions brought to my attention which related to the allegations in the brief to the minister. In one incident, an Indian female, approximately 60 to 65 years of age, was checked in a taxi which was proceeding on to the reserve. The woman was in an intoxicated condition. When asked by the officer if she had any liquor, she produced a bottle and handed it to him. She was then asked if she had any more. In response to that question, she said: "Do you want to see?" and raised her dress up over her head. She was subsequently arrested. The following morning upon her release, she was quite embarrassed by the incident as,

when in a normal condition, she is quite a mild-mannered, quiet individual.

The second incident involved a younger woman who was checked under similar circumstances. When asked if she had possession of any liquor, she produced from her blouse two small bottles of liquor. She was subsequently charged under the Indian Act. On her return to the reserve, she related to friends that the police officer had taken the liquor from beneath her breasts.

This allegation came to the attention of Sergeant Barclay, who with Chief McDonald contacted the woman some days later. He was assured that she had handed the liquor over to the officer and that she had made up the story about the police officer in order to enhance the loss of the liquor to her friends. She readily admitted that this was a poor course of conduct on her part.

Further interviews in regard to the searches of female persons failed to produce any cases where such an incident had occurred by male officers. In each detachment, even in our most remote areas, female matrons are employed for the purpose of dealing with female prisoners. If a native woman, or for that matter any female, is suspected of concealing intoxicants or other contraband on her person, she is taken into the presence of the matron and searched in private.

One has to be familiar with the liquor problems on the reserves and the extent that persons will go in order to get liquor on to the reserve. Recent cases related by Chief McDonald indicate that Javex bottles are concealed in groceries and the contents are removed and replaced with alcohol in order to get them on to the reserve. Small medicine bottles, one or two ounces in quantity, have been used. They were filled with liquor and tied around the waist of the female person in order to circumvent any possible searches. The problem of bringing liquor to dry reserves will continue because of the accessibility by road and by water in the summer.

Other inquiries were made on the reserve concerning the illegal entry allegation by police officers into the residents of native peoples. They were found to be unfounded. On the occasion where entries did occur without warrant, they were justified and by invitation. For example, the sniffing of gasoline or gas-sniffing, as it is commonly called by teenagers and young people on the reserves, is reaching epidemic proportions.

On occasion where officers have entered a residence by invitation, it has been indirect, for example, where an elderly woman in charge of a home is in fear of several teenagers because of their condition resulting



from the sniffing of gasoline. She sends a youngster to the police office to get the local constable. On his arrival, while the woman motions him into the residence, she feigns surprise because she does not wish to aggravate the situation and fears later retaliation should it become known that she is, in effect, the reason for the police presence at the residence.

A second occasion where police entered without warrant was a situation where they had been called to the residence and were responding, where an intoxicated Indian had brutalized the inhabitants of the residence and was standing in the window. Upon arrival of the police, he ran to an adjacent bedroom, got into bed fully clothed and feigned sleep. The officers were invited into the residence by the occupants and did, in effect, arrest the subject for assault and intoxication.

[10:45]

It is apparent that each of the allegations in the brief of the CCLA can be verified similar to the above-mentioned cases, if we had known the complainants and the times of occurrences. Throughout the investigation there was no evidence whatsoever of anti-racist conduct by provincial police officers or Kenora police officers. We must take exception to the intimation in the brief where it is indicated that some 20 or 25 arrests of Indians were noted and that these persons were roughly handled and that no white persons were arrested. Although we have no location for this particular event, it is reasonable that on a reserve, only Indians would be present. Therefore, I feel Mr. Borovoy intimates that the police somehow show bias because of these arrests.

With respect to the Kenora police department, I interviewed Chief of Police C. W. Engstrom and also had a meeting with the police commissioners of the town of Kenora which consisted of the mayor, William Tomashowski, Dr. Berkley Newman and His Honour District Court Judge G. F. Kinsman. Chief Engstrom related that in 1977, over 5,000 arrests for drunkenness were effected in the town of Kenora. Of these arrests, the majority are taken to the detoxification centre and some to the local hospital. The last resort is the local cells which are used when the detoxification centre will not admit the person because of his unruly behaviour.

Of these thousands of arrests in 1977, only three complaints were lodged by native people which were investigated by the chief and reported upon to the police commission and to the Ontario Police Commission. This is rather

a commendable record considering the volume of persons handled by a small force.

Evidence by interviews with local persons both native and white indicate a certain pride by the police in their department and the local officers believe they display an unusual amount of patience and understanding in handling this unfortunate situation. Many persons believe this to be a social problem inherited, rather than an enforcement problem to be placed upon the enforcement authorities.

**Mr. Wildman:** I appreciate your full reply to the allegations. Are you satisfied that you were able to identify what you think might have been the incidents that were related to in the allegations in the letter?

**Mr. Kendrick:** It is difficult, in that we know the affidavits exist. We are told they exist. Yet, although we are assured co-operation from Mr. Borovoy on behalf of the civil liberties association, when we make an effort to obtain any information, he claims he must keep this information confidential due to an agreement he made with these people. However, it is rather difficult to comprehend that all of these people, with no exception, would come forward and request that this information be kept secret. I can't really consider that possibly one or two would not say "Yes, I am prepared to stand behind my accusations." But we have no information, really, no co-operation from him or Mr. Strader whom we met in Kenora. And, again, with the Pow Wow Club executive present, I assume, they failed to provide us with any substantial information.

We did learn through the investigation of possibly 20 depositions that they felt that in all probability 10 of those could stand up to scrutiny. Of those 10, since September 1977, we have investigated nine internally; the local police have handled three complaints from citizens, and they have been thoroughly investigated and action has been taken in each instance.

**Mr. Wildman:** You mention Whitedog which was voted dry. Do you think one of the reasons for this is the band council isn't supported in its desire to keep the reserve dry and the police end up in a situation of having to search and seize on the way in?

**Mr. Kendrick:** This is the problem. We are aware of very unfortunate results where Indian bands have voted wet. There are certainly enough problems. In fact, if they do not attempt to bring liquor on the reserve, they bring the components, yeast and what have you, and make some home brew which has the same result—problems.



**Mr. Wildman:** Okay. Is it normal for a police officer to stop a taxi and ask an occupant to get out to determine whether or not that person is carrying liquor on their person?

**Mr. Kendrick:** It's not a normal procedure, no, sir. But, in that particular area, the road goes to Whitedog, nowhere else. Any vehicles on that road are proceeding to the reserve. The detachment commander there, Sergeant Barclay, with the concurrence of the chief and the band council, has been initiating these searches. He receives reliable information, as to which vehicles and occupants leaving Kenora or Keewatin may be carrying liquor. As a result they carry out these searches and take the appropriate action—knowing, of course, that by removing the cause, you remove the problem.

**Mr. Wildman:** And that procedure has the concurrence of the chief and band council?

**Mr. Kendrick:** Yes, I should say it has the concurrence of the chief. My discussion with Mrs. Wagamese, as a sideline to a discussion between Mrs. Wagamese and Sergeant Barclay, was to the location of these searches. She felt they should be closer to the area rather than out on a main road, some distance away. From overhearing their conversation I wouldn't say it met with her concurrence.

**Mr. Wildman:** I have got a couple of other questions here on the initial letter that was sent to the Solicitor General.

I will just read a portion of it: "Our search for corroborative material was bolstered by a rather remarkable incident which a CCLA field worker experienced during a visit to one of the reserves." I imagine this was Whitedog. "The teacher of an adult education and retraining class advised our worker that his class would like to ask him some questions before his departure from the reserve. Our staff member agreed to meet with them and soon afterward attended at their classroom. At that point, they confronted him with a list of questions which they had prepared in writing for him to answer."

"The following is a partial reproduction of some of the questions: What are the rights of the individual police or police regarding entry into a house? What are the individual's rights regarding body searches? There have been incidents here where the police have kicked doors down. What procedures could an individual take against them?"

"Do the OPP have the right to search women? Can the police walk into a house without knocking on the door first? Do the

OPP have the right to sneak up to our houses and peek in the windows?"

Now, how do you react to these questions? The civil liberties association puts some importance on the fact that, they state, these questions were not solicited. It's obviously true that the people in the area knew there was a CCLA worker on the reserve asking questions. Besides the question of whether or not there is a basis in their experience for them to ask these questions, which I would think there must be, obviously there appears to be the need for an educational process, both for the police and the people living on the reserve, as to who has what rights and how to deal with one another. There certainly appears to be a very serious lack of communication between the police and the people who were asking these kinds of questions.

**Hon. Mr. Kerr:** Some of these questions, I suppose, can be asked by anybody, particularly with respect to the right of entry, body searches and things of that nature. For example, there is the question of whether the OPP have the right to sneak up on homes and peek into the windows. If the police have been called to a particular house and there is an altercation of some kind, if somebody is highly intoxicated, for example, and is abusing somebody else—there may be information he is armed with some type of a weapon—I think it would be normal police procedure to sneak up to the house and peek in the window to see what the situation is.

It is an oversimplification really to ask a question like that. It depends on the circumstances. I don't see any problem—and I thought this had been done to some extent, particularly by the band constables—in informing people of the rights and duties of police officers and of citizens in situations of that kind.

We must remember here that it wasn't too long ago that the chiefs on these various reservations were seriously concerned about the type of criminal activity that was taking place on the reservation. Vandalism, drinking, theft and more serious crimes under the Criminal Code were taking place, and there didn't seem to be any way to control it. Something would happen which meant that in some cases a police officer had to drive 20 or 30 miles before he could get to the scene.

By establishing the band constable program and by training native policemen—the same training that the OPP have—we have a constable right on the reservation attempting to maintain peace and order and protect life and property. My understanding from the chiefs is that they feel there has been a great im-

provement, particularly by the almost regular presence of the police on these reservations. Certainly there is no objection and there is no reason why from time to time the band constable or the police officer assigned to those areas couldn't explain what rights the police officer has, what duties he has, the question of the right to search, where warrants are required before entry and things of that nature. I think that would be very helpful in answering some of the questions that were posed here.

**Mr. Ziembra:** Why don't you encourage the band constables to attend school on a regular basis and explain this thing to them?

**Hon. Mr. Kerr:** I feel it is being done now. I think the chiefs and some of the teachers have arranged for that type of thing to be done.

**Mr. Ziembra:** They shouldn't feel threatened by their own constables.

[11:00]

**Hon. Mr. Kerr:** No. To me it is an ideal activity for a native constable to get involved in.

**Mr. Wildman:** Do you have a regular program of liaison between let's say the Minaki detachment—I am not sure of the term used, I call them the public relations officers in the detachment in my area—a community service officer who regularly travels on to the reserves and in conjunction with the band constables talks to individuals and groups about the role of the police and their relationship with the native community?

**Mr. H. H. Graham:** About three years ago we instituted what is known as a fly-in program, one in northwestern Ontario working out of Sioux Lookout at the present time, and one in northeastern Ontario working out of Timmins. The officers are assigned to this duty for a two-year period, after which they may apply to be released from it. They go into various reserves, weather permitting.

They usually stay two or three days. They talk to the band council chief, the council, the Indian constable where there are Indian constables. Incidentally, there are 85 Indian constables at the present time on 47 different reserves. Of inhabited reserves, there are about 120. The constables sometimes act as referee and have stood up as best man at weddings. They talk to the school teachers and the school children. They are there more in a community service capacity than in a law enforcement capacity.

Last summer I accompanied Chief Judge Hayes and provincial judge Cloutier to several reserves—Attawapiskat, Fort Albany, Fort

Severn, Winisk, Moosonee—and we met with the chiefs in every case, in some cases with the whole council, and with the Indian police constable. They expressed satisfaction with their police service. They weren't knowledgeable in some aspects of court cases—they wondered why sentences in most cases were not longer rather than shorter and they wondered why certain cases were tried on reserves other than their own. It was all explained to them. Invariably they said liquor was their big problem. I might say that crime has been reduced dramatically since our program was instituted.

**Mr. Wildman:** I would like to talk about the band constables but I understand that is another item, is it?

**Mr. Chairman:** Yes.

**Mr. Wildman:** Before that, I have a couple of other questions.

**Mr. Chairman:** I wonder Mr. Wildman, since you have taken up a considerable amount of time, if we could allow Mr. MacBeth and a few other people on, then perhaps I can put you back on the list.

**Mr. Wildman:** Can I just ask one question and finish up what I have been discussing?

**Mr. Chairman:** One last question.

**Mr. Wildman:** On May 9 the civil liberties association and the Lake of the Woods Pow Wow Club replied to the minister's letter of May 3 in which they asked specifically for police in the Kenora area who deal with native people to be instructed in certain procedures, and they suggested seven particular instructions.

I won't go through them all, but I just want to know what has happened with that request of not entering homes to determine whether or not someone is intoxicated. I suppose the police might react that that already would have been done. I am sure the intent of this letter was to reinforce that. There are a couple of very important ones here. They say:

"Grant certain acceptable native representatives, to be designated by the native leadership, in the area the right to access to police cells at all times to visit arrested persons; adopt a policy that certain acceptable native representatives, to be designated by the native leadership in the area, are to be notified as soon as is practicable in a manner to be agreed upon of the arrest of all native persons; extend to native leaders the opportunity to meet formally with senior police officials periodically"—which you have described here—"as well as on an emergency basis in order to discuss problems and issues

of concern to all parties and review the operation and the safeguards."

What about instructions five and six, that native representatives have access to police cells and be notified as soon as is practicable whenever a native person is arrested?

**Hon. Mr. Kerr:** I don't think there is anything very difficult about that. In many cases, I would suggest in view of our street patrols that this is being done now. In operating a jail, the right of access at all times may be some sort of a problem. But certainly reasonable access on any day to visit arrested persons should be part of a policy, whether it is a question for this Indian council as part of their activities or whether it is a question of legal aid counsel or things of that nature. I would hope Mr. Morrison and his group in the Kenora area would now have that privilege or right.

**Mr. Wildman:** The other one was that they wanted periodic meetings with senior police officials, which I understand have taken place.

**Hon. Mr. Kerr:** He mentions every three months. I would think that that is essential to prevent all kinds of problems. It is an excellent idea, if it is not being done on a regular basis. This same letter went to the police commission as well as to myself and to Superintendent Wilson of the OPP.

**Mr. Wildman:** In Kenora.

**Hon. Mr. Kerr:** I would think that should be in effect, particularly in order to discuss problems and issues of concern to all parties and review the operation of these safeguards. I think that is a very reasonable request.

**Mr. H. H. Graham:** That is being done already. The senior officers of the OPP do meet regularly about every three months.

**Mr. Wildman:** What about the other two requests about native leadership designating people who would be notified whenever a native person is arrested and who would have the right to visit in police cells?

**Mr. Kendrick:** If I may, we discussed this with Mr. Strader at the time in Kenora when these were being prepared. We brought to his attention that there is some difficulty in the visitation to cells, both in the town of Kenora and OPP detachment cells. This is because of the fact that we do give a certain privacy to individuals that have been arrested. I pointed out to Mr. Strader that should a person approach a police officer or a cell area requesting to speak to an individual by name he would have every right to visit with him, as would a lawyer or anyone else.

However, to have a carte blanche entry into the cell block could prove most embarrassing for individuals that may be in there for any number of reasons. At this point, we brought to his attention that we also have a duty to the individual that is in custody in that it not be brought up on the street that he is there. He may be held there for only a short period of time, found to be completely innocent and released. It would be quite embarrassing if it were publicly known that he had been in the cells; and many connotations were placed on that.

**Mr. Wildman:** When the individual is arrested, would it be acceptable at that time—or if he is in an intoxicated condition, perhaps later—for him to be advised that it would be acceptable to the police, if he wishes, to meet with a representative of the native leadership for advice or counsel?

**Mr. Kendrick:** Yes. As we pointed out, again, to Mr. Strader at that time, it is the lockup situation we are concerned with and usually it is a matter of hours before they appear before some type of court or justice of the peace or are released, merely released once they are able to take care of themselves again. That is the end of it.

**Mr. Wildman:** But he could be advised that if he wished to meet with someone, that is acceptable?

**Mr. Kendrick:** Certainly, the difficulty being that many people do this type of thing at 4 or 5 o'clock in the morning. An incoherent telephone call to a representative really can't do much for them.

If they proceed to the cell area to speak with the individual, then they are no longer in that position of giving them guidance; they now become a witness as to the particular condition, and this can again prove some embarrassment.

They are given every opportunity. They are released as soon as it is possible for them to take care of themselves.

**Mr. Wildman:** I won't pursue it, Mr. Chairman.

**Mr. Chairman:** Mr. MacBeth.

**Mr. MacBeth:** At the present time are there any native constables on the Whitedog or Grassy Narrows reserve?

**Mr. Kendrick:** Yes, sir, there are two operating—pardon me, there is one at the present time.

**Mr. MacBeth:** At which one?

**Mr. Kendrick:** At Whitedog.

**Mr. MacBeth:** How long has he been there?



**Mr. Kendrick:** I am not familiar with his length of service, sir. You would have to speak with our adviser on Indian affairs.

**Mr. Chairman:** Would you please come to the microphone and give the information Mr. MacBeth has requested? Will you identify yourself, please?

**Mr. Oliver:** I am Inspector Gordon Oliver, Ontario Provincial Police. I am in charge of Indian policing.

And the reserve you were speaking of, sir?

**Mr. MacBeth:** You said there was a native constable at Whitedog?

**Mr. Oliver:** We have two special constables at Whitedog. They entered into the program on August 12, 1977.

**Mr. MacBeth:** And what about Grassy Narrows?

**Mr. Oliver:** At Grassy Narrows we have two special constables.

**Mr. MacBeth:** And when did they appear?

**Mr. Oliver:** They came on December 22, 1977.

**Mr. MacBeth:** Mr. Chairman, about two years ago I had the privilege of visiting both Whitedog and Grassy Narrows, not ostensibly to visit the reserves, but in a review of policing in the northwest part of the province. At that time, I don't recall seeing any native constables. It was two years ago, I guess, and there were no native constables there at that time. They were regular, white constables on the job.

I was impressed by the understanding that these people seemed to have of the native problems, their interest in the native people themselves. They were young constables, generally new on the job. I was surprised at their patience.

As we travelled about the reserve we went into the community centres, we went into the schools. They seemed to know not only many of the natives by their first names, but also many of the children who were there and the children were certainly pleased to see them and greeted them as though they had a father image with them of some sort or another.

They seemed to know the native customs. I know we visited one place—a burial ground—and they were explaining the various native customs in regard to it and, as I say, I was very much impressed by the job the white constables were doing. I would assume the native constables have improved it just by that much more.

[11:15]

All the time the band leaders and the chiefs were after the ministry and myself at that

time, for more police. In other words, they were not in any way dissatisfied with the job the police were doing, but were very pleased with it. Their emphasis was more police; they wanted more native constables. Evidently that has now been done, and I am glad to hear that.

Rather than resenting the police presence in any way, they wanted more. Their big concern was the alcohol problem, of course. They expressed that not only on my visits there, because I wasn't talking to them formally there, but also when they visited us. As Provincial Secretary for Justice, I remember we had one or two meetings with them; their concern, as I say, was for more policing and particularly how they could deal with the liquor problem. They were after us to do anything we could to keep liquor away from the dry reserves.

In any society, whether we are dealing with downtown Toronto or Whitedog, I suppose it's not difficult to find a fair number of malcontents who feel the police have harmed them in some way and will make these allegations so long as their names don't have to be attached to them. You could do the same in Toronto without any difficulty, I am sure—get the kind of affidavits that we have heard about this morning.

I would be concerned, Mr. Wildman, that we don't overemphasize the malcontents among the native population—

**Mr. Wildman:** On a question of privilege, Mr. Chairman: I just wanted to point out that I yielded the floor before getting into discussing the native constables, and I was going to be very complimentary of the force and their work with the native constables.

**Mr. MacBeth:** That may be, and I am glad to hear that, because so far we have been dealing with affidavits that would imply that the police were conducting themselves in a way that was not generally acceptable.

The point I want to make is that it is generally acceptable from the chiefs who have made representations to me. As I say, they want more policing. I would like to emphasize the positive points of this program rather than leave any other impression, because we have spent close to 45 minutes now emphasizing the parts of the policing policy that some people say are not working very well. I want to stress that represents the viewpoint of a very small minority of natives that I have come in contact with, either by being on the reserves or by having representations made to us here.

**Mr. Chairman:** I would remind the members that we have less than two hours left in these estimates. We have spent considerable—

**Mr. MacBeth:** I took less than five minutes.

**Mr. Chairman:** Yes, I wasn't talking of any member in particular, Mr. MacBeth.

I will allow Mr. Lupusella to continue questioning.

**Mr. Lupusella:** Thank you, Mr. Chairman. I would like to be brief.

First of all, I would like to raise a question with the Solicitor General in relation to the allegations which we heard this morning from the Ontario Provincial Police.

It seems the Canadian Civil Liberties Association, through the correspondence which the minister and the association had, has been making reference to the citizens' complaint bureau. With particular reference to their allegations, the association was calling for an independent investigation. There was particular reference to the bill which was introduced last year, I guess—around December—by the former Solicitor General in relation to the citizens' complaints bureau.

In that bill, even though there is an external investigation, and I think I raised this personal concern with the Solicitor General during the estimates, it also appeared to preserve the internal investigation. When we are going to deal with this bill, is it the minister's intention to revise the clauses and the structure that is contained in the bill at the moment, or is the minister going to make a few changes in the bill?

**Hon. Mr. Kerr:** We expect there would be changes in any legislation that we might introduce. Certainly there is some benefit as far as the internal investigation is concerned. This is basically in line with, for example, the Maloney report where he feels the system should build on police confidence and trust in police integrity, leaving civilian influence to review the quality of investigation.

In other words, I see nothing the matter with a complaint being made to a complaint bureau officer or complaint commissioner. Then, if the complaint is not satisfied, the Ontario Police Commission could then be involved, which is a form of civilian review. If the complaint still isn't satisfied then there would be some type of appeal mechanism involving citizens' review board or some such.

I feel that because so many complaints that are made are satisfied at that initial level it would be, in my opinion, an error to do away with that stage, or that present procedure, and go immediately to some appointed board and all the complicated structure that may involve.

I realize—and I guess this is the point the civil liberties association is attempting to make here—there are a lot of people who don't want to complain about the police to the police. They feel that an internal or in-house type of investigation won't be satisfactory and there should be some sort of civilian review board, completely separate and apart from the police.

I think that option should exist but first of all the other two levels should be there so there's an opportunity for the citizen to make that initial complaint without prejudice to a citizens' complaint bureau, or a complaint officer, then to the local commission, and the Ontario Police Commission. Then, if he's not satisfied he has the option of going to a civilian committee which we may set up.

I don't know if there's any great magic to that committee as compared, for example, to the OPC. In my opinion the OPC is an independent body, made up of civilians who oversee the general operation of the law enforcement agencies in this province.

If you ever looked into the whole complaint procedure and saw the extent of their files and the number of people who have been satisfied by just one interview, first with a complaint commissioner and the officer against whom any allegations have been made. In many cases, a simple explanation and an apology solves the problem.

I don't want to do away with that process because it is basically very successful.

**Mr. Lupusella:** If I may respond briefly to the comments made by the Solicitor General. I'm particularly worried about these internal investigations contained in the bill. I hope the Solicitor General is going to introduce the bill some time in the fall. Internal investigation bothers me for several reasons. I see articles in the newspaper such as "Judge Criticizes Police for Hiding Inquiry." I'm making particular reference to an article I saw on April 27, 1978. "The Ontario Police Commission's chairman, Judge Thomas Graham, criticized Waterloo regional police Wednesday for refusing to co-operate with the Ontario Police Commission investigators looking into brutality complaints."

I don't want to go through the article because the introduction is self-explanatory. I particularly worry about the bill when I see those internal investigations taking place. Just to share my particular concern, I don't trust those internal investigations. I'm looking forward to seeing the contents of the bill to see if you are going to emphasize the principle of external investigations so that this kind of criticism won't appear in the newspaper and

at least justice can be seen through the course of the investigation.

**Hon. Mr. Kerr:** I think I had better reply to that. It really isn't germane to the point you're attempting to make.

**Mr. Lupusella:** I'm making some kind of comparison with what the regional police are doing, which can easily happen through the citizens' complaint bureau bill which you are going to introduce some time in autumn, I guess.

**Hon. Mr. Kerr:** All I'm saying here is that you're using an example of a situation where there are certain allegations made against a police force in the Waterloo region. The OPC, under the Police Act, as a result of a request by the local commission, is conducting an open hearing, an open inquiry into those allegations.

I don't know how a citizens' complaint bureau would do that any better. If you're concerned about internal investigations, there's an example where there's an open inquiry; as you're saying from a newspaper report, there is some difference of opinion between the local police force and the OPC. That, in my opinion, reinforces the argument that it is going to be an independent, unbiased inquiry and that there's no cosiness or internal investigation attempt to cover anything up.

One of the complaints about the present system has been that we have these internal investigations, there are some recommendations made and maybe some disciplinary action taken against a couple of officers and then the thing is shelved and forgotten. Therefore, because of that we need a citizens' complaint bureau, you say. The fact is that what the OPC is doing here is exactly what would be provided under our proposed legislation in the event that we brought in a civilian review commission or whatever you may call it. Your analogy there escapes me a little bit.

**Mr. Lupusella:** I hope you are going to put more emphasis on an external investigation which is not under the control of the police.

In the opening statement of the former Solicitor General—I guess, last year—going back to the item which you were discussing in relation to the band constables and the Indians involved in those allegations, it seems that the OPP appointed Mr. William Brant as full-time Indian OPP liaison officer. I don't think it's the same officer, is it?

**Mr. H. H. Graham:** William Brant is now a member of the Attorney General's ministry, I understand, and he is working in Kenora. Previous to his present appointment he was with us here at our Indian branch services.

**Mr. Lupusella:** Who replaced him?

**Mr. H. H. Graham:** No one has replaced him. The program is well on the road now. We have removed the chief superintendent. It was Management Board instructions that after the program was initiated we would reduce our staff. The present man in charge is Inspector Gordon Oliver, who you met this morning, along with a sergeant and some clerical staff.

[11:30]

**Mr. Lupusella:** When did Mr. Brant leave his position as a full-time Indian OPP liaison officer?

**Mr. H. H. Graham:** It was about a year ago. Yes, he was a former OPP constable.

**Mr. Lupusella:** As I understand it, it seems that you are going to replace him with another full-time Indian OPP liaison officer. Is that correct?

**Mr. H. H. Graham:** No, we're not replacing him. Our people in the field are liaison officers.

**Mr. Lupusella:** What about the committees which have been established around the province in relation to the Indian reserves? Who is the person in charge of all of those committees? Did you scrap those committees in view of the fact that you don't have an OPP liaison officer or are those committees still existing?

**Mr. H. H. Graham:** Inspector Oliver, whom you met this morning, is really an OPP co-ordinator. The local OPP officials attend the meetings of the Indians.

**Mr. Lupusella:** If I may, what's the function of those committees? How many committees are around the province?

**Mr. H. H. Graham:** I'm not aware that we have committees ourselves. We go to the Indians who have the committees.

**Mr. Lupusella:** Here is an opening statement which was released by the former Solicitor General in, I guess, 1976. There is particular mention of those committees and that they would embrace the entire province. It seems that this program has not been carried out because you are not covering the entire province yet. Is that correct?

**Mr. H. H. Graham:** We have 85 constables in 47 reserves. There are about 120 inhabited reserves throughout the province but we are expanding as federal money and our own becomes available.

**Mr. Lupusella:** So maybe in 1976 when those committees were operating, what was the function of those committees?

**Mr. H. H. Graham:** I'm not sure what committees you're referring to.



**Mr. Lupusella:** Here is a particular reference: "In addition the OPP has appointed Mr. William Brant as full-time Indian OPP liaison officer. He is responsible for assisting in the expansion of the Indian OPP liaison committees until they embrace the entire province."

**Mr. Wildman:** It's a statement by Mr. MacBeth.

**Mr. Lupusella:** It's a statement which was released by the former Solicitor General, Mr. MacBeth, during the estimates of 1976.

**Mr. H. H. Graham:** I could only say the duty of Mr. Brant has been absorbed or taken over by our liaison officers throughout the province. At the present time we have about 30, and they meet regularly with the Indian band councils every month.

**Mr. Lupusella:** Maybe you are unable to provide further information about those committees. Maybe I can receive from the Solicitor General an explanation about the instituting and the structure of those committees in 1976 and their function.

**Mr. H. H. Graham:** I think Mr. Lupusella must be referring to the committees set up in 1975 and 1976 to form the Indian policing program and the branch.

**Mr. Lupusella:** Here there is no particular specification and the concept is quite vague.

**Mr. Chairman:** I wonder if you could simply provide the commissioner and the minister with a copy of the statement you're referring to and perhaps they can get back to you with a written reply on that.

**Mr. Lupusella:** Okay, I will. By going further to the allegations, I would be interested to find out if the officers involved in the investigation were regular OPP officers or band constable OPP officers.

**Mr. Chairman:** Mr. Kendrick, can you answer that question?

**Mr. Kendrick:** I'm sorry, will you just go over the last part of it again, sir. I was coming forward.

**Mr. Lupusella:** I will repeat the question. Were the officers involved in the allegations which we discussed previously regular OPP officers or were they band constable officers?

**Mr. Kendrick:** They were both. The majority, of course, were regular members, because they are in the majority. There were unfounded allegations against the special constables also.

**Mr. Lupusella:** I see, okay. To the Solicitor General, it seems that we have at the moment 85 band constables, and it seems that the target of the Solicitor General's office was to

reach 100 band constables. When are you going to reach this target? I raised this question about the allegations in the Legislature and the Solicitor General was supposed to make a full statement. It seems that the full statement was made by you this morning and not by the Solicitor General.

Are you programming something in order that the target of 100 band constables will be reached pretty soon? It seems there is a great need to have band constables on the reserves. I remember during the estimates of 1976-77 we praised the importance of band constables on the reserves because they know their own communities. I think the Solicitor General should put more emphasis on this in order that this target will be reached as soon as possible.

**Hon. Mr. Kerr:** I might say that we have about 85 now and the new agreement with the government of Canada, which is involved in this on a cost-sharing basis, provides for 120 at the end of the period. I would assume that would be March 1981. What we will do then is increase each year—assuming we have about 85 this year, increasing it five or 10, whatever we can hire and train, so that by March 1981 we have a total of 120.

**Mr. Lupusella:** Okay. Another question in relation to that: In my opening statement I requested a copy of the agreement between the provincial and the federal governments in relation to band constables. I hope that you are going to send me a copy.

**Hon. Mr. Kerr:** We can send you that.

**Mr. Lupusella:** Another question is related to existing policy of the OPP and I raised this concern last year in the previous estimates. The OPP sets aside approximately 6.5 per cent of the salary budget for overtime pay. At this time they are instead given time off for overtime work. Did you overrule this practice? I don't think it's a fair one.

**Mr. H. H. Graham:** The OPP, of course, are in contract with the Ontario Provincial Police Association, which was settled last March. What is the question again, sir?

**Mr. Lupusella:** The OPP sets aside approximately 6.5 per cent of the salary budget for overtime pay, but through the existing policy they are instead given time off in exchange for overtime work. I don't think that is a fair practice.

**Mr. H. H. Graham:** The officer has the option of taking time off or getting time and a half for overtime.

**Mr. Lupusella:** That wasn't my understanding last year.

**Mr. Chairman:** Is the commissioner indicating that that's part of your collective agreement?

**Mr. H. H. Graham:** Yes, it is, sir.

**Mr. Lupusella:** So this option is open—

**Mr. H. H. Graham:** Yes.

**Mr. Lupusella:** —to the OPP as well? The then Solicitor General last year did not give me any particular answer in relation to this particular item about these parts of the contract. I have nothing to add.

**Mr. Bradley:** Mr. Chairman, I don't know whether I am going to be allowed to deal with this. Certainly my questions do not relate specifically to what we have been talking about so far. Are you prepared to entertain other comments?

**Mr. Chairman:** We have been trying to be as flexible as we can with the members. If you have an issue to bring up that is relevant to the gentleman sitting at the microphone, or to the minister, I will consider it.

**Mr. Bradley:** Thank you.

**Mr. Chairman:** I wonder if we can get a few of the items passed. What item do you think we might stretch our imagination and get it under, Mr. Bradley, so that we don't pass it?

**Mr. Bradley:** If I were to be realistic about it, I would be looking at the next vote, 1605.

**Mr. Chairman:** Maybe we can pass this vote and then you will be perfectly in order.

**Mr. Wildman:** May I ask you one question before we pass this vote?

**Mr. Chairman:** One question, Mr. Wildman.

**Mr. Wildman:** It is regarding band constables, and I agree with the comments made earlier that they are very important and very necessary and a good addition to the OPP service in the north especially. As a matter of fact, the OPP officers on the local detachment that I talked to think it is a very good program, and so do the people on the reserves.

I just wanted to know, though, since the program began, how many of the people who have been trained to be band constables have remained in service. Have very many of them quit and you have had to train somebody else for that particular reserve to take that person's place. Has that happened very often? I know on some of the reserves in my riding there seems to have been some turnover in the band constable program.

**Mr. H. H. Graham:** In the early stages the turnover was very high but, as the salaries have increased and as they have become accepted by their fellow Indians, most of whom were sceptical about them in the first instance, the turnover now is very low.

**Mr. Wildman:** You don't have any figure about the 85?

**Mr. Oliver:** No, but it would only be about three or four per cent.

**Mr. Wildman:** That's good, I have tried to persuade this government in conjunction with the federal government to look to enforcement of game and fish regulations of Natural Resources by native conservation officers too, which might be a very good situation.

Does the ministry or government have any intention to respond to the request of many bands for some time now that the band constables be given the right and the necessary training to administer the Highway Traffic Act?

**Hon. Mr. Kerr:** It is my information that these gentlemen, and women as well, are given the same type of training; they are attending the Police College at Aylmer. I would assume, if they are working not only on the reservation but also off the reservation sometimes, depending on where their duties call them, that they would be trained and versed in the provisions of the Highway Traffic Act and would be able to enforce them. Is that correct?

**Mr. H. H. Graham:** Yes, they are trained in that respect, and they do enforce certain provisions of the Highway Traffic Act on the reserves.

**Mr. Wildman:** There is a particular provision that I am interested in. Are you telling me a band constable could set up a speed trap?

**Mr. H. H. Graham:** We don't have—

**Hon. Mr. Kerr:** I don't think he would be that sneaky.

**Mr. Wildman:** What I am asking is, if there is someone who is tearing around the reserve, drag-racing or something, can this person be charged by the band constable or does he have to call the OPP detachment, which could be a long way away and the guy could be long gone by the time the OPP officer arrives to deal with the situation that has been identified by the band constable?

**Mr. H. H. Graham:** He could be charged if the band constable has the evidence, without the intervention of the OPP. Occasionally, when we have complaints from the band chiefs, we do go in with radar sets and set them up.

[11:45]

**Mr. Wildman:** I know that. I am talking about whether or not the band constable can do that.

**Mr. H. H. Graham:** Yes, the band constable on certain reserves does that as well.

**Mr. Wildman:** What happens when you have a major highway going through a reserve? In most cases the OPP is the one that is responsible for a highway. Garden River is one I am thinking of.

**Mr. H. H. Graham:** Yes, we are responsible.

**Mr. Oliver:** The constable does have the right under the traffic regulations of the Indian Act to charge, in conjunction with the Highway Traffic Act.

In reply to training: They do get instructions on the Highway Traffic Act at Aylmer. Where they are more or less confined to a small area, we bring them out to a larger detachment and give them the actual Highway Traffic Act training with another constable, to give them a little bit of the real thing. But if it is on a King's Highway, all they have to do is call the OPP and we will help them with any problem they have. That is the way we set it up.

We are responsible for the highway and we will maintain that responsibility. But if they do have a speeding problem in the reserve, they have moving radar and they will enforce the Highway Traffic Act.

**Mr. Wildman:** That answers my question. Basically you are saying that in Garden River they have to call the Sault Ste. Marie detachment?

**Mr. Oliver:** We will keep that. We maintain the patrol of the highway. The Police Act says we must maintain patrols on King's Highways so we will maintain the patrol. If they have a speeding problem, we will go in and help.

**Mr. Lupusella:** May I raise another question supplementary to that, Mr. Chairman?

**Mr. Chairman:** Well, Mr. Lupusella: I did say that I would allow one more question but I do want to call the vote.

**Mr. Lupusella:** Mr. Chairman, I do have important issues to raise to those votes.

**Mr. Chairman:** Can you not raise them under 1605? I do want to allow Mr. Bradley—there has been no questioning by the Liberal Party.

**Mr. Lupusella:** Maybe I can give him some time and I can go back on other questions—

**Mr. Chairman:** We will give you time in vote 1605. I am sure we can stretch our imagination to accommodate your questions.

Before we start 1605, there is a matter I would like to raise with you that should only take a couple of minutes.

I have distributed to you some correspondence from the Speaker that has been

addressed to the committee for consideration. It concerns some correspondence from an outfit called Educational Management Services Canada Limited. I would like to refer to two paragraphs in that correspondence. One paragraph is labelled paragraph one, which states:

"The chairman of the committee made the statement before the meeting that my deposition contained slanderous statements. Since I was sitting at the back of the room at the time he made this claim at the front of the meeting room, I can only assume that most of the people at the hearing could hear this. I believe that this statement could have prejudiced the fair presentation of my sworn deposition and would ask that he substantiate his claim with proof of libel of slander contained in the sworn deposition."

He goes on in that paragraph and later on in the letter says: "Immediately before the meeting, in a conversation that could be heard throughout the room, the chairman of the committee was heard to inform Mr. Stong that the sworn deposition contained many allegations and accusations which could make the person presenting the sworn deposition open to charges of libel and slander. A reading of the sworn deposition would appear to contradict this statement."

I would like to put on the record that to my recollection, I made no such statement, and that on discussing the matter with Mr. Stong, who unfortunately couldn't be here because of a funeral, he recalls no such statement made by me to him. I also asked the minister, who, of course, is sitting beside me at all times during these estimates, and he in turn confirms I made no such statement to his recollection.

I would like the committee therefore to ask the clerk to advise the person who sent this letter that we have no recollection of any such statement being made by this chairman, either before or during the estimates. Furthermore, he should be advised that the committee members have been distributed the statement by Mr. Joe Krar, that they will consider it and if any member of the committee wishes to raise it at the next estimates or at the next meeting of this committee he or she is free to do so.

**Mr. Lupusella:** I move such a motion, Mr. Chairman.

**Mr. Chairman:** Fine.

**Mr. Bradley:** I move we table this whole business.

**Mr. Chairman:** Mr. Lupusella's motion that we so advise the Speaker—carried? The matter is being dealt with. Thank you for



your indulgence, Mr. Bradley. You're next on the list.

**Mr. Bradley:** I would like to deal with a variety of topics with some short questions and I won't take too much of the committee's time.

The first deals with policy—I know I'm down to law enforcement which is the second vote—but in terms of the policy of the Ontario Provincial Police in regard to speed traps on the various King's Highways, I just wish to relate very quickly an incident that I felt reflected not too well on the Ontario Provincial Police and the discretion they would use. I recognize, first of all, that they have a responsibility to enforce the laws of the province and I accept this and I think they do an excellent job.

I was going to a meeting in Niagara Falls on how to boost tourism in Ontario. On my way there I left the Queen Elizabeth Highway and went on to Highway 420. The speed limit is 100 kilometres per hour on the Queen Elizabeth. I would have assumed it was the same as you went off on to 420; however, it was 80 kilometres. Just past where the speed limit changes, and hiding behind a bridge, was an Ontario Provincial Police car catching people speeding. A lot of those people going in that direction are American tourists, and they have to obey the laws of the province as well.

What I am questioning here is the policy of the provincial police setting up speed traps just past the speed limit change in an area where many people are looking for signs to turn off. I know everybody says, "I support the upholding of the law, except—" but I wonder about this policy of stationing police cars. It reminds me of the rumours I hear of the Georgia State Police where they set it up almost just behind the changing of the speed limit and at a place where many tourists are looking for signs and so on. One wouldn't assume that the speed limit had changed. In fact, I personally went by four signs and didn't see any of the signs, as I'm sure several of the others who were pulled over to the side did.

I accept the fact that when one is exceeding the speed limit, the police have every right to issue a ticket and no one, I think, can object to that—certainly not in a court of law. I just wonder if there is a certain amount of discretion? Are we not discouraging visitors to this province when we set up speed traps? I don't mind it being behind the bridge and hidden—that's their job—they've got to enforce the law. I don't object to that at all and I don't even object to

unmarked cars. But I do find it a little bit repulsive when they sit right behind speed limit changes. Is this the general policy, to sit behind speed limit changes and issue tickets? To whomever might be able to answer that.

**Mr. H. H. Graham:** No, that is not our general policy. We expect our men with the radar units and in every other respect to use their good judgement, and to give the public a fair shake. So far as charges in 1977 are concerned, a total of 140,000 charges were laid as a result of radar and also very importantly, to show our policy and the discretion we use, 45,470 warnings were issued.

**Mr. Bradley:** That's an impressive record. I appreciate the fact as well that the warnings are used although I think when anybody exceeds the speed limit, they deserve a ticket if the officer decides there's not going to be a warning. I don't really object to that. I approach it from the tourist's point of view in this province, when the Minister of Industry and Tourism (Mr. Rhodes) is talking about trying to attract tourists. They are often not aware of speed limit changes very quickly and I realize we get into MTC and it's their responsibility to make clear to motorists that the speed limit has changed. But I remember the governor of Georgia erecting signs that were 24 hours a day guarded by his state police indicating the practices of a certain town at issuing tickets.

I don't think this is a general practice. I don't wish to imply that's all you do. But I just bring that to the attention of the committee and to the minister that perhaps this is a policy that could be avoided—unless of course and there might well have been a reason. Perhaps there had been a lot of accidents on that strip or something of that nature, in which case I think it would be understandable. But I just think at a place where there are so many tourists and where the cars are being waved over, it probably leaves a rather bad taste as a person is leaving the country when they are hit with a ticket and—

**Mr. H. H. Graham:** We bend over backwards—

**Hon. Mr. Kerr:** You haven't got the boys on a quota down there, Harold, have you?

**Mr. H. H. Graham:** No, sir.

**Hon. Mr. Kerr:** Good.

**Mr. H. H. Graham:** We bend over backwards to accommodate the tourists. I can think of only one complaint I have had from an American tourist in a year or so, and we

take this attitude especially since we are on kilometres and they are not familiar with it.

**Mr. Bradley:** That's good, Mr. Chairman. I think I am probably talking about an isolated incident, but I would hope that wouldn't be a regular practice. Something that could be avoided was positioning it right where the speed limit does change and there is a curve and everybody is looking for signs on where they might have to turn off.

A second question if I can bounce from one area to another, and you are really stretching your imagination to allow me to do this, but I would ask a question of just how much involvement may be permitted by officers of the provincial police in the next elections? I recognize that your officers aren't out carrying signs or anything of that nature, but one hears rumours that during the next federal election for instance that they will be campaigning heavily for certain law-and-order measures, which is understandable, and also for the death penalty. What involvement will they be permitted in this regard?

**Mr. Chairman:** I believe this was a question Mr. Lupusella raised some time ago and the minister was to report back, so I wonder if it would be appropriate—

**Hon. Mr. Kerr:** I don't think so—was I? Did you ask me that?

**Mr. Lupusella:** Yes.

**Mr. Chairman:** I recall quite well that was a question Mr. Lupusella raised in one of the first sessions.

**Mr. Bradley:** His opening statement.

**Mr. Chairman:** It was part of his opening statement.

**Hon. Mr. Kerr:** They are governed, I guess, by the Public Service Act. I don't think they can take an active part on behalf of a candidate. In other words, I don't believe they can solicit on behalf of any particular candidate. I know there are certain police officers who feel very strongly about certain policies. Without identifying themselves with any particular candidate or party, as a result of resolutions passed by their association, they may be sitting in a public meeting and asking questions and things like that.

I am not sure whether or not you have any policy separate and apart, commissioner, from the Public Service Act, and the normal restrictions placed on the members of the force.

**Mr. H. H. Graham:** No, we are guided by the Public Service Act. I think, Mr. Bradley, you are referring to the stand of the Canadian Association of Chiefs of Police across the country. They have indicated they will urge

policemen to vote for the law-and-order people.

[12:00]

**Mr. Chairman:** I wonder, commissioner, if you make a distinction between a statement by a police organization and a statement which might be made by a police chief or police officer who is not speaking on behalf of that association to the newspapers? Is that not a political statement that would be the equivalent of the deputy minister attacking his minister on a political issue or disagreeing with the government at the provincial level; in fact, involving himself in an attack, in this case, against the federal Liberal government?

**Mr. H. H. Graham:** I would think so.

**Mr. Chairman:** Would he therefore be open to action by you if he made such a statement in the press?

**Mr. H. H. Graham:** Every statement would have to be examined very carefully, I think, and all the circumstances considered. I know the Ontario Provincial Police Association has come out emphatically in favour of capital punishment. The executive manager has said that and told the members that and it's been publicized. I see nothing wrong with that. I think he, in his position, has that right to do so.

**Mr. Lupusella:** Mr. Chairman, if I may, I would like to make a statement. Taking into consideration my particular interest on that issue, I think it will be completely erroneous if chiefs of police are going to make political statements. If in the next federal election capital punishment is going to be one of the issues, I don't think a police force should be seen by the public to take particular sides on political issues. I think the public has a particular image of the police force. I think the police force should be seen by the public in a very impartial way by emphasizing the first principle of law enforcement in the province of Ontario and across the country.

I hope the Solicitor General is going to respond to that and take a strong stand in order that the police force won't engage itself in that political exercise during elections, because in my opinion it will damage their image among the public. If chiefs of police or any particular officer would like to run for any political party they are very welcome and they can make such statements. Otherwise it's up to the Solicitor General in charge of policing in the province of Ontario to express such a position in the name of the Progressive Conservative Party or another party.

I think this practice should be stopped. I think that if a political statement is to be

made it should be made by the Solicitor General and not by a provincial commission or a ministerial commission. I don't believe in that. I think the public sees the police force as an agent of law enforcement and it should be impartial on that issue. By getting involved in those issues, I think that the public won't perceive the police force in that way. I hope the Solicitor General will clarify this situation once and for all, instead of us seeing those big articles in the daily newspapers about particular positions which are political positions and shouldn't be expressed by any police force in the country.

**Hon. Mr. Kerr:** I don't entirely agree with Mr. Lupusella. As you know, we have police associations in this country, either provincial or federal, which hold conventions from time to time, the same as the Canadian Bar Association or the Engineering Society or the University Women's Club or the CLC or what have you. At these conventions they pass certain resolutions. I think they have every right to pass certain resolutions and whether they are dealing with current issues, political issues or the concern of their association for matters that are current within society, I think they have every right to comment and to discuss those issues.

Much of our legislation at the provincial and federal level today is the result of various associations, representing a particular profession or vocation, passing those resolutions and, in fact, lobbying at various capital cities to have their recommendations implemented as law. This is still a free country and, as I say, I don't care if it's the Ontario Federation of Labour or the Police Association or what, they all have the right to comment, to pass resolutions or make recommendations.

As far as an individual police officer taking an active part in a campaign, all I'm saying is that when the police officer becomes a police officer he doesn't necessarily become a political enunch. He still has certain rights as a citizen. He can vote. He can attend political and public meetings and take part in discussions of the general welfare of his constituency, community or what have you. However, unlike the average citizen, as a public employee of the federal government or the provincial government he is restricted in the type of political activity in which he or she can become involved.

I think it's important that he or she adhere to and comply with those restrictions. The police can feel very forceful and very dogmatic about certain issues such as capital punishment or certain provisions of the Criminal Code or what have you, but I think they should be careful during an election

campaign not to imply that one candidate would be more favourable to them because that candidate adheres more to the thinking of that particular police officer. I think that's an area where it's quite questionable and the police officer should use great discretion.

As far as the police associations making recommendations resulting from the deliberations of some type of local, provincial or national convention, I may even go so far as to say they have a duty to comment.

**Mr. Lupusella:** Mr. Chairman, I concur with the—

**Mr. Chairman:** I believe Mr. Bradley did have the floor, Mr. Lupusella.

**Mr. Bradley:** I will allow Mr. Lupusella to pursue this matter.

**Mr. Lupusella:** Thank you. I concur with the second part of the answer of the Solicitor General that as individuals they have the right to participate within the political and electoral process, but I completely disagree with the first part and the last part of the answer and I want to make it clear.

**Mr. Chairman:** I wonder if I may ask the commissioner a question from the chair? Before the last provincial election, I believe some instructions were sent out to civil servants and public employees concerning the role or the extent to which they might involve themselves. Since this is likely to be an issue in the next federal election, will you or could you issue some clarification to your people as to exactly how far their rights go in making statements on this issue or any other issue which might affect the election?

**Mr. H. H. Graham:** Yes, I could if necessary, Mr. Chairman, but I should also point out that in addition to the Public Service Act we are governed by a regulation under the Police Act which says: "No member of the force shall take any part in politics or occupy an official position in a party organization, but this does not affect the right of a member to private political views or to vote."

**Mr. Chairman:** You said that you could. Is that the equivalent of saying that you will? What is your position on that?

**Mr. H. H. Graham:** I am not sure that it's necessary. I would have to examine what was sent out before.

**Mr. Lupusella:** Pardon me, Mr. Chairman, can I have a statement from the Solicitor General as to whether or not the Progressive Conservative government is for or against capital punishment?

**Hon. Mr. Kerr:** In your case I am for it.

**Mr. Chairman:** Mr. Lupusella, that question is out of order and I won't accept it at



this moment. Do you have any other federal questions that you want to ask that I can call out of order and get them out of the way at the same time?

**Mr. Lupusella:** I would like to raise other questions, if you will allow me, on vote 1604, item 4, which relates to various reductions in recruitment, advertising, training and educational services.

**Mr. Chairman:** I am sorry, Mr. Lupusella. Mr. Bradley did give you the floor to pursue that one item. I will not allow him to give you the floor indefinitely.

**Mr. Bradley:** On the same one, Mr. Ziemba would like a supplementary.

**Mr. Ziemba:** Just a brief supplementary: If the Police Act states that an individual has the right to private views, are they private when they are published in the newspapers?

**Mr. H. H. Graham:** No, I would think not.

**Mr. Ziemba:** Then would you consider disciplining the police chiefs who have made statements favouring capital punishment?

**Mr. H. H. Graham:** Not the police chiefs. I have enough problems with the OPP. Police chiefs are under the OPC, which will be on after us. I would consider disciplining them if they broke any regulation of the Police Act.

**Hon. Mr. Kerr:** I think that's quite clear. I didn't realize you had that type of regulation. It is quite clear.

**Mr. Bradley:** In response to the minister's answers, I think we all recognize the need for an impartial police force and an apolitical police force. However, I would share the point of view that as an association, with an official spokesman speaking for an association, they have the right to express any views they see fit, whether the public agrees or disagrees.

I think where the problem arises is if someone in the upper echelons of the police force—I am not suggesting that this happened—were to make certain statements about political decisions and people see them to be in a very high position and interpret this to be the position of all of the police. I think that would be a dangerous move. As a police association, they have the right, just as the firemen's association or the teachers' association or anybody else has, to make statements. Even the Ontario Public Service Union has the right to take a political stand, should it see fit, as a union. I don't think we can confine them there.

If I can move on to another area, there has been a lot of concern expressed about organized gangs within the province of Ontario which have caused problems in provin-

cial parks and other areas where there isn't a large local police force and the Ontario Provincial Police have been forced to deal with it. I'll ask a general question so that perhaps I can get a somewhat general answer on how bad the problem is at the present time. Do you feel you have made progress? Are you able to respond with small detachments to problems at places like Crystal Beach, where there was a problem a few years ago, and certainly the provincial parks?

**Mr. H. H. Graham:** We have made a lot of progress, particularly this year with the new liquor regulation in the provincial parks. We always feel if we can get over May 24 weekend that the zip has gone out of most of these people who come to our parks to raise trouble. That occurred this year. There was some trouble at Sauble Beach, but it was not of a major nature. That was the only park where we had any trouble. We are coping with it, along with the Natural Resources people, who have been trained better recently to deal with these cases.

In the small towns we are often called upon by the local chief and we always respond. I don't think we are in any trouble at the present time. I have no indications that we can't handle the situations. The motorcycle gangs and so on come out frequently and we keep tabs on them. We have a special unit set up to deal with them. The municipal police often call us to their rallies, so we give them special attention.

**Mr. Bradley:** There is no situation that exists, then, in the province of Ontario, to your knowledge, where a town would say that it is being terrorized or is at the mercy of any particular gang of any kind?

**Mr. H. H. Graham:** Not to my knowledge.

**Mr. Bradley:** That's obviously good news. There was a concern for a few years in certain jurisdictions that certain organized gangs—again I am not talking about organized crime, the underworld, but about the type of gangs that have terrorized and taken over towns—had intimidated local police to the extent that they wouldn't take the kind of action they might otherwise have done. To know that there is progress is going to alleviate a lot of the fears that a lot of people had.

If I can move on to yet another area, the use of citizens' band radios. I notice that they have been both an asset and a liability; I suppose an asset in that certain communications can take place with police forces. Have they been used extensively to thwart the laws of the province of Ontario and to thwart the efforts of the police to enforce those laws?

**Mr. H. H. Graham:** There is no question that they have so far as traffic violations are concerned. On the positive side, they have been extremely useful in notifying us of accidents where people have been seriously injured on the highway, which we wouldn't have known about so quickly. They have even been responsible in some cases for arrests in burglary cases in the early hours of the morning. In one instance, people with a CB radio were on the road and saw a suspicious car at a factory. We responded and caught burglars in the act. They are very useful. The positive side outweighs the negative side, where they talk about Smokey being ahead and that sort of thing.

**Mr. G. Taylor:** On that same issue, I notice along the Queen Elizabeth Way you now inform by large signs that you monitor certain CB channels. What is your purpose behind informing the public of this?

**Mr. H. H. Graham:** The purpose is to monitor channel nine, which is an emergency channel. We monitor it in Burlington and Port Credit detachments so that when information comes on the air we can dispatch our people forthwith.

**Mr. Chairman:** Is there any action that you can take at a provincial level for misuse of the emergency channel?

**Mr. H. H. Graham:** No, I don't think there is. Even blinking your lights to indicate that a radar trap was in the neighbourhood was tested in the courts a long time ago. That isn't an obstruction.

**Hon. Mr. Kerr:** Heavens, you are only testing your headlights.

**Mr. Chairman:** Do you feel that the federal government is adequately monitoring the use of CBs, particularly the frivolous use of the emergency channel?

**Mr. H. H. Graham:** The misuse of it would be a federal matter. I don't know how they can control it, there are so many CB radios.

**Mr. Chairman:** You do admit that it is being misused?

**Mr. H. H. Graham:** Oh, yes. The obscenities and some of the talk are not fit for any person.

**Mr. Chairman:** Mr. Ziemba, supplementary on that?

**Mr. Ziemba:** Not on this one. Has vote 1603 been stood down?

**Mr. Chairman:** It has been. We will handle it some time between now and 1:16.

**Mr. Bradley:** Mr. Chairman, can I continue on with these nice short questions? Another area I want to look at rather quickly

is the cost and problem of transportation of prisoners by police from cells to courts and otherwise. You are involved in this. The service is bought from you by the Ministry of Correctional Services, I believe.

Is there a problem in this regard, first of all, with the amount of money that it's costing? Do you feel it's costing too much money? Second, is the closing of jails and certain other institutions in the province of Ontario causing problems for the OPP in terms of taking up too much time in the transportation of prisoners?

**Mr. H. H. Graham:** They do take up a lot of time, but we're in so many areas. In northern Ontario, for instance, we've gone into this problem very thoroughly and there is just really no other solution but that we look after these prisoners. In southern Ontario, Mr. Drea and his people are taking over more and more of the transportation to the regional detention centres.

**Mr. Bradley:** What about the costs of this? Is it not the case that they buy the service from you, they pay you for transporting them? Is that the case?

**Mr. H. H. Graham:** No, I don't think it is.

**Mr. Bradley:** It comes out of your budget then? I know there's always a quarrel about whose budget it's going to come under.

**Mr. H. H. Graham:** There are so many areas—whether or not you're taking him to court, and when the person has been sentenced and convicted and what happens after that. Are we responsible for him after that or is the sheriff and so on? I understand there is a study under way by Mr. Pukacz in the Attorney General's ministry and we'll be involved in that.

**Hon. Mr. Kerr:** The costs that you referred to, Mr. Bradley, are borne for the most part by Correctional Services and the police are reimbursed for transporting prisoners.

**Mr. Russell:** Except the OPP.

**Hon. Mr. Kerr:** Except the OPP, right. As the commissioner mentioned, the report by Mr. Pukacz will involve a study of the whole picture of transportation costs in the province in the area that you're interested in, whether or not there's a better way of handling them and who should pay for it, particularly in light of the policy of Correctional Services to close more and more jails. This may involve extraordinary costs that the Ministry of Correctional Services is apparently not prepared to assume and will also have to be borne by the OPP in its sphere.

**Mr. Bradley:** Continuing this hopping from place to place, Mr. Chairman, I would like to get a comment from the commissioner on whether he feels that the recent proposed changes and recent changes in terms of gun control are adequate to handle the problem of the misuse of firearms in the province of Ontario. Many times we hear from a certain segment of the population—and they're not police officers; I suppose they're members of gun clubs and so on—who say what the police really want is to take the guns away from the criminals and to have very harsh penalties for those who would use guns in the act of committing a crime.

On the other hand, we see that a lot of accidental shootings take place and crimes are committed and semi-crimes, I suppose, are committed in terms of a child picking up a gun or somebody using a gun in a fit of passion. That is a crime, of course, but it's not a premeditated one. Do you feel that the changes in the gun control laws have been beneficial and do you feel that the federal government or the provincial government, if it has any jurisdiction in that area, could move further to assist your police force?

**Mr. H. H. Graham:** We acknowledge, of course, that criminals will always be able to acquire firearms one way or another. The chief provincial firearms officer is Inspector Villemare of our force. He's been involved in this matter, this legislation, ever since it was discussed. We are certainly of the view that it's a step in the right direction. We think it will help tremendously. It hasn't come into force yet. We think it should be given a chance in its present form.

**Mr. Bradley:** I think anything else I would have would come under vote 1603, when we go back to look at that. I'll pass on now.

**Mr. Lupusella:** Under vote 1604, item 4, I see that various reductions in recruitment, advertising, training and educational services have been made. Can I ask the total amount of money which was allocated under this particular item in 1976-78, why such reductions took place and what are the implications of this cutback?

**Hon. Mr. Kerr:** What is the total figure?

**Mr. Lupusella:** It's \$69,100.

**Mr. H. H. Graham:** Mr. Chairman, I think the answer is because we have had to reduce our recruiting program.

**Mr. Lupusella:** By how much?

**Mr. H. H. Graham:** By 120.

**Hon. Mr. Kerr:** The difference between last year's estimates and this year's estimates

is \$99,900. Do you want to comment on that, Mr. Edwards?

**Mr. Edwards:** Mr. Chairman, the \$69,100 is made up of four items. Advertising costs, which are recruitment advertising costs, have been reduced by \$10,000. Training and educational services, which consists of cost items such as hotel costs, food costs, seminar costs, has been reduced by \$39,100. Medical services has been reduced by \$5,000 and psychological services has been reduced by \$15,000. Those four items comprise the \$69,100 that you're looking at.

**Mr. Lupusella:** Please explain the training and educational services, the implication of what is taking place now in view of those reductions.

**Hon. Mr. Kerr:** I would think that because you're not taking on any more recruits at this point, that automatically would reduce your training and educational services costs. Is that correct?

**Mr. H. H. Graham:** That's right, sir. We're taking them on again now, but we weren't earlier.

**Mr. Lupusella:** Okay. In vote 1604, item 6, aircraft operations, lately I saw some articles in the newspaper that aircraft patrolling has been reduced. Here I see this item, aircraft operations, \$61,400. Maybe you can explain to the committee if aircraft patrols have been eliminated completely or reduced to a certain point.

**Mr. H. H. Graham:** It has been eliminated completely, for the present time at any rate. It should be emphasized that these planes were only leased. There were five last year in various areas. They were used mostly to monitor four-lane highways. They were useful, but they did have the disadvantage that they could only be used in good weather. Also, it was a May to Thanksgiving term. We thought our available funds could be put to better use by purchasing two-way radar sets and that's the reason for the cutoff of the plane patrol.

[12:30]

**Mr. Lupusella:** In vote 1604, item 8, I have a question on uniforms and equipment—\$39,200. Who is manufacturing those uniforms and are the same companies manufacturing uniforms to the regional police force?

**Mr. Ziembra:** Are we buying Canadian?

**Mr. H. H. Graham:** Yes, sir, we are. The purchases are all made by tender through the central agency of the Ministry of Government Services. There are only three companies in Ontario at the present time who are



producing uniforms. These are House of Stone, Sainthill Levine and Firth and they're all made and purchased in Ontario.

**Mr. Lupusella:** I am interested in raising this item because I have some figures from 1966 to 1977. I was able to get some information about those companies manufacturing uniforms for the police. I was interested to know the name of the owner of this House of Stone. But there was no way that I could get any information. What I know is that House of Stone is the business name for a company called M. Stone Clothing Ltd., according to information I received on the company's branch from Consumer and Commercial Relations. The file on M. Stone Clothing Ltd. is inactive, which means that information is still available but it has to be forwarded from an office in Cooksville.

Now, how can this government purchase those uniforms without making public the owner and what is going on with his company? According to information which I received from the former Solicitor General, from 1966 to 1977, this particular company received more than \$1 million on uniforms. I was unable then to get information. Can the minister get the information for me about the House of Stone?

**Hon. Mr. Kerr:** Perhaps we should ask the commissioner if we are still doing business with the House of Stone?

**Mr. H. H. Graham:** Yes we are, sir. I think it was formerly owned by Stone, but the employees have recently taken over the business. That's my information.

**Mr. Lupusella:** Who is the owner of this company?

**Mr. H. H. Graham:** The employees.

**Mr. Lupusella:** The employees? Can I have the full report about this matter? Well I would appreciate it if the Solicitor General would be good enough to provide me with further information.

**Mr. Chairman:** May I suggest, Mr. Lupusella, that if you come into the committee tomorrow when we are dealing with public disclosure in Bills 7, 8 and 9, you might find that of relevance also. I don't know whether it's a public company or not but—

**Mr. Lupusella:** Well I would be pleased to do that.

**Mr. Chairman:** —that's the topic that we will be debating tomorrow.

**Hon. Mr. Kerr:** No, I think I'll ask the commissioner to give me some information as to the House of Stone, some information on the company he's doing business with, if

they're still doing business and on what basis, under what terms. I can find out, of course, who is behind the company who operates it, and things of that nature, from another ministry.

**Mr. Lupusella:** The question is also related to the other company which is manufacturing those uniforms for the police force—Sainthill Levine Uniforms Canada Limited, which is an American company.

Is there any way the Solicitor General is going to undertake to find a Canadian company to manufacture those police uniforms? The Solicitor General is aware the textile industry is in a crisis, not just in Ontario but across the country.

I don't want to see American companies manufacturing those uniforms, and I hope the Solicitor General is going to take this item seriously and do business with Canadian companies.

**Hon. Mr. Kerr:** What is the name of the company you mentioned?

**Mr. Lupusella:** Sainthill Levine Uniforms Canada Limited, a company which has received millions of dollars since 1966.

**Mr. Chairman:** Am I incorrect in saying the commissioner gave earlier testimony that all uniforms were bought from Canadian companies?

**Mr. H. H. Graham:** That is right, sir. Only three companies tendered. Sainthill Levine, Firth who have the present contract, and the House of Stone.

**Mr. Chairman:** So your understanding, then, based on your previous statement, is that this is, in fact, a Canadian company and not an American company, as Mr. Lupusella has said?

**Mr. Lupusella:** I guess that the owner of this company is not Canadian.

**Mr. H. H. Graham:** Well, all I meant to say is that they are all manufactured in Ontario by Ontario employees, of course.

**Mr. Lupusella:** It is understandable that they are Ontario employees. I am particularly concerned about the management of the company. The management of the company is not Canadian.

**Mr. H. H. Graham:** I don't know that.

**Mr. Lupusella:** I have this information here in front of me. If you are interested, the president's secretary is Mr.—I am not sure—Levine of 15 Windsor Avenue, Westmount. The treasurer comes from West Hill; I don't know the classification or function of the other people. There is Ohio, Willowdale, and again Ohio, Los Angeles—it seems the man-

agement is not Canadian. I don't think that the owner of this company is Canadian.

**Mr. H. H. Graham:** I don't know. They are manufactured here anyway.

**Mr. Chairman:** Thank you. I think the commissioner and the minister have answered the question.

**Mr. Lupusella:** The message which I would like to direct to the Solicitor General is to select Canadian companies so that the management of those companies does not come from the United States.

**Hon. Mr. Kerr:** I question whether or not we should go that far. You named some directors there, some locations. I think there were at least three Canadian locations that you mentioned in that list of management. The plant is in Ontario and the employees are Ontario employees and are under Canadian laws. You are telling me in so many ways that maybe I shouldn't buy an automobile in Canada—

**Mr. Lupusella:** I am not saying that.

**Hon. Mr. Kerr:** It's the same idea. The managements of many of our companies are foreign, either partially or totally. I think in the interests of efficiency and economy, in order that the OPP will get the best possible deal at the best possible price they shouldn't start looking behind the structure of these companies to see if one or two or three of the directors happen to be Americans. I don't think we should be involved in that way. I think if you are sticking to Canadian or Ontario companies, that would be sufficient. I am sure there are some young fellows in that firm who were born in Cooksville or Timmins who are on the way up and maybe some day will take it over. In the meantime, we shouldn't put it out of business nor should the employees not have the advantages.

**Mr. Lupusella:** Why are the same companies receiving the business for uniforms? Why don't you select other companies?

**Hon. Mr. Kerr:** We have no restriction as far as asking for bids, do we, commissioner?

**Mr. Lupusella:** They have been receiving the business since 1966.

**Hon. Mr. Kerr:** Mr. Lupusella is saying, commissioner, that you have used the three same companies. Are there any more in the business?

**Mr. H. H. Graham:** There are no others available, and they are not very interested in our business either.

**Mr. Lupusella:** I am completely surprised.

Vote 1604 agreed to.

On vote 1605, operations program:

Item 1 agreed to.

On item 2, law enforcement:

**Mr. Lupusella:** If I may, Mr. Chairman, before we complete the vote under 1605, I would like to talk about organized crime, if I am in order.

**Mr. Chairman:** You are in order under this vote, Mr. Lupusella. I will tell you, though, I am going to give you a maximum of seven minutes because Mr. Bradley has indicated that he wishes to address himself to vote 1603 which is the item that was stood down. So I will give you seven minutes and then allow other members of the committee to speak.

**Mr. Lupusella:** First of all I would like to ask the commissioner about the relationship between the Ontario Provincial Police and the RCMP in regard to organized crime and what kind of operation is performed by the two joint forces?

**Mr. H. H. Graham:** The relationship is excellent. The RCMP is involved in organized crime in Ontario, mainly in cases where they have national and international ramifications. We have several special enforcement units which are composed of OPP, RCMP and municipal police, Metro Toronto, for instance, and regional police.

We have 10 ongoing joint-force operations right at the moment in organized crime dealing with a wide variety of matters such as drugs and loan sharking, extortion, gambling. So we assist each other.

**Mr. Lupusella:** In his opening statement last year, the Solicitor General made reference to organized crime.

This year in the estimates under a different Solicitor General, there was no mention of organized crime and nobody knows the ramifications and the extent of organized crime in Ontario.

The only thing we heard two years ago—one year ago, I guess—was as a result of a CBC program. Organized crime is under control, emphasized the previous Solicitor General. The present Solicitor General, instead of trying to give information about the serious problem which exists in Ontario, made a statement which bothered me in some way: "Mr. Lupusella is going to talk about organized crime." I am sure if you go through the record you will find that statement.

If I had information about organized crime, I was going to raise the issue. The question is, we don't know what is going on concerning organized crime. Last year in the Legislature I suggested the Solicitor General give us some background information about the problem which exists. It seems the former federal Solicitor General, Francis Fox, made a

clear statement that Ontario is not doing much to fight organized crime. On the other side we heard the statement by the Ontario Provincial Commission and the former Solicitor General that organized crime is under control.

[12:45]

I don't know to which opinion we give more credibility in relation to this important item—to the former federal Solicitor General, Francis Fox, or to the OPC which emphasizes that organized crime is under control in Ontario. I'm completely confused, because we really don't know. The particular reference which I made last year, to give us some background information in order that members of this Legislature can take a look at the seriousness of the problem, might help us in reaching a conclusion as to whether organized crime is under control.

**Hon. Mr. Kerr:** I think it's important that you not approach this with a certain amount of naivety. Organized crime exists. For example, organized crime is quite prevalent in Metropolitan Toronto. There's no question that there is loan-sharking going on, there's prostitution, there's gambling, drugs, certain types of fraud, protection rackets and all this sort of thing which I'm sure you're aware exists in Metro.

**Mr. Lupusella:** No, I'm not, because otherwise I would have mentioned the situation.

**Hon. Mr. Kerr:** It exists. It all depends on your definition of organized crime. We're not talking about any great international organization or anything like that necessarily when we talk about organized crime. You talk about three or four or five people banding together to undertake some criminal activities. Whether they call them a gang or a particular organization involved in particular types of crime, such as drug distribution or the protection racket or gambling or loan sharking, that type of thing exists in every metropolitan city on this continent to some extent.

There isn't necessarily a connection from one urban centre to another, but it goes on and the police investigations and police arrests and, in some cases, convictions indicate that this is going on. To say that organized crime is under control, really you can't take issue with that statement. The police have a very good idea of who is involved, what organizations are involved, in this type of criminal activity. The important thing is that they have the opportunity, through co-operation with the other police forces, through the joint force operation to get

sufficient evidence to lay charges and get convictions.

Some of these criminals are very sophisticated. They know they are under continuous surveillance so they're very careful in the way they operate. Many of them operate with legitimate fronts, while behind they are involved in some way in other illegal activities. The police cannot publicize from day to day what investigations they are conducting. They are conducting these investigations in such a manner that the criminals involved are not able to keep up with the investigation. They don't know, in fact, how successful the police are, so that as a result of painstaking surveillance and investigations, particularly in drug trafficking, they are able to make arrests where they get a breakthrough and they are able to break up a particular illegal operation. It may have interprovincial or international connections.

To keep talking about organized crime as if we're talking about bilingualism or something in a very vague and general way doesn't really do the situation justice, nor the law enforcement agencies which are involved in this. They really don't get the credit they deserve. This is a very difficult, complex and sensitive area. As long as you have a public, for example, that buys drugs, that uses drugs, or you have somebody who is willing to borrow money at very exorbitant rates of interest, as long as you have people who are prepared to buy pornographic material or do business with prostitutes, you'll have these criminal activities going on. This of course, makes the job of law enforcement agencies that much more difficult.

We will always have some degree of this. We'll always have this type of illegal activity in our large urban centres, in any large urban centre, I suppose, anywhere in the world. The important thing is to make sure we have the trained personnel assigned to combat it and that they have sufficient funds to deal with it, regardless of how large the organizations may be. I feel that not only with the intelligence agencies that we have, either the international or national organizations that are involved in sharing intelligence, in working together, the type of communication system we have now, the investigation of this type of crime is much more successful than it was a few years ago.

Every once in a while you'll pick up a newspaper and you will read where, as a result of many months or years of surveillance, some drug operation has been broken up, there's been a large seizure, there's been



a number of arrests. The same goes for loan-sharking or gambling operations. This is an indication of the periodic results that we're getting from this type of criminal investigation and the type of co-operation involving usually the RCMP, the OPP and the local police forces in Ontario. They are operating continuously together. They are meeting regularly together.

The Ontario Police Commission is also involved in this type of investigation. They have separate branches within their organization that deal with nothing but certain types of organized crime. You have your anti-racket squad, you have your drug squad, your anti-gambling squad and all that type of organization within large metro forces as well as the OPP and the local forces. All I'm saying is that it exists. It's doubtful that it will be completely stamped out, but when we say that it's under control, we have been making headway with the type of surveillance we have, the type of investigation we have. We're making the arrests that are necessary.

Some of these organizations are quite large, so you may put three or four leaders of a criminal organization behind bars for a number of years. Unfortunately, there's always somebody ready to step in and take their place. It's a continuous operation and it will always be part of the police organizations in the province.

**Mr. Lupusella:** I appreciate the minister's statement. The reason I raised this issue last year, and I'm sure the public questioned the implication involved in that item on the same matter, was because of the two controversial positions—the one coming from the provincial government that organized crime was under control and the other one coming from the federal Solicitor General that the province of Ontario didn't do much to control organized crime.

That's why I raised this particular issue in the Legislature last year during the estimates. I am sure the public was disturbed in relation to both statements coming from a different level of government.

**Hon. Mr. Kerr:** What Solicitor General made that remark?

**Mr. Lupusella:** Mr. Fox.

**Hon. Mr. Kerr:** I don't know the context in which it was made. Was it in reply to a question or a speech he made here or where was it made?

**Mr. Lupusella:** Yes, it was made during a speech after a program on the CBC. I don't know when exactly.

**Mr. Chairman:** My recollection, Mr. Minister, was that Mr. MacBeth at that time responded, so there may be a response also.

**Mr. Lupusella:** The former Solicitor General told me: "Why don't you go and ask the federal Solicitor General why organized crime is not under control in the province of Ontario." That's really silly.

**Hon. Mr. Kerr:** I might just say that I expect to meet with the present federal Solicitor General later this month. One of the topics of that conversation will be a question of organized crime and I will ask him if he has the same opinion as his predecessor.

**Mr. Ziemba:** When you meet with the federal Solicitor General, can you ask him about this whole Praxis affair? You are familiar with that I am sure, Mr. Minister. There was a break-in a number of years ago and it turns out that the RCMP wound up with all these files, membership names and all the rest of it. I understand the province has conducted an investigation and I am not really sure that we have come up with any answers as to whether there was any wrongdoing on behalf of the RCMP.

There have been some charges made in the Legislature just the day before yesterday by the member for St. George (Mrs. Campbell) on this topic. I wonder if you have anything that you would like to add to the allegations that, if nothing more, the RCMP received stolen property and held on to this stolen property for a number of years and whether we should be letting them off the hook as easily as we did.

**Hon. Mr. Kerr:** As you know, Mr. Ziemba, the Attorney General made a statement in the House just a few days ago about this and indicated that there was no wrongdoing on behalf of the RCMP. I might say that if you want to follow this up, the chairman of the OPC is here and will be speaking on the next vote, and he could very well elaborate a little further on that if you wish him to do so.

**Mr. Chairman:** Thank you. Before taking the vote, I would like it recorded that a Mr. Dahn Batchelor, who was sitting here until just a minute ago, provided some members of this committee with a statement by Mr. William Edward Nykyforchyn, dated Monday, June 5, 1978. This is not an affidavit. It's a signed statement and I was only presented with a Xeroxed copy of that statement. If any members of the committee want copies of it and they haven't received it, I will be happy to distribute extra copies to them.

The minister will be going through that and reporting back to me and to any other member of the committee who may be interested. I really do not think this is the time or the place to deal with this matter. I just want it recorded that the minister has said he will look into it and report back, if that meets with the approval of the committee.

I trust that the commissioner, if he happens to be driving through the beautiful borough of Etobicoke, knowing the tremendous pressures and so forth, he no doubt wants to celebrate right now, but I will remind you that we have an excellent program called RIDE and if you are going to celebrate, please be careful when you drive through the borough.

[1:00]

**Mr. H. H. Graham:** I will take your advice.

**Mr. Chairman:** I would like to thank the commissioner and all of his staff for coming before us and for answering the very difficult questions that many of the members did present to you.

If I may take just one second, since Mr. Batchelor is out of the room and I did try to reach him before we did this, the committee did decide that any member who wanted a copy of the Xerox statement that you presented to some members of the committee could receive one. The minister has promised to look into the allegations or statements posed in that statement. However, it was the decision not to deal with it at this time in this committee since we have just received it.

Item 2 agreed to.

Items 3 to 6, inclusive, agreed to.

Vote 1605 agreed to.

On vote 1603, supervision of police forces program; item 1, Ontario Police Commission:

**Mr. Ziembra:** Just one point on Mr. Batchelor's statement—

**Mr. Batchelor:** Excuse me, Mr. Chairman, that is not my statement. I have never presented a statement.

**Mr. Chairman:** We made that clear.

**Mr. Ziembra:** On the statement we had before, there are allegations with regard to police interrogation methods and one thing and another. Whether they are true or not we'll determine that in time I suppose, but I would be interested in the Solicitor General's views on police stations and interrogation rooms, that whole business, and the sort of cloak of secrecy that goes on there.

I wonder whether you might consider providing MPPs access to detention areas, cells and interrogation rooms in police stations and

break the same kind of ground that the former Minister of Correctional Services Mr. Grossman did about 15 years ago, when he opened up the ministry to MPPs? In other words, he took away from this back-room business and provided access to elected representatives to walk in without warning and inspect these premises on a regular basis.

**Hon. Mr. Kerr:** Premises within a police station, do you mean?

**Mr. Ziembra:** Yes. My number 11 station, there are fine people there but I feel intimidated every time I go in. There is a big sign, "Police Personnel Only." I've gone in with constituents and they feel much the same way. It's not a community centre, it's a private club.

I wonder whether you would consider that. This is something new and you are breaking new ground if you agree to it, but would you consider giving elected representatives open access to these cells and holding areas so that whenever there is a question raised about police brutality we can go in there and check it out ourselves? We can talk to people who might be held there and, if there is a complaint that night, go out and inspect it ourselves, first hand, and not leave it up to the police.

**Hon. Mr. Kerr:** I don't see anything the matter with that. The police, of course, have complete control over their premises and they can deny anybody access unless there is some type of authorization. I suppose there have to be some rules or some guidelines. They won't be able to operate completely effectively if unauthorized persons are able to come in without notice, wander around and walk into a room where there may be a particular interrogation, interrupt it and things of that nature. I think this is only reasonable and common sense.

However, talking about Mr. Grossman's previous stand on this, if I remember correctly, he said you could go to a correctional institution or to any of the institutions under his aegis without notice and identify yourself as an MPP and be allowed access to the building. I believe the access included being accompanied by somebody in the institution and answering questions; almost a conducted tour type of thing. Maybe the breakthrough that you're implying in that situation was that you didn't have to arrange it ahead of time and attend at a certain hour and a certain day.

I would think that type of thing can be arranged as far as the police are concerned. Maybe Judge Graham would like to comment on that. Police stations are very busy

places. They're very hectic places at certain times, particularly when there's a shift change and at certain early hours of the morning, but I would think, within reason, there should be no great restriction on the movement of authorized persons of that kind.

**Judge T. J. Graham:** No, Mr. Minister, I can't see why there would be. Of course, the main problem is that when more than the one person is in the cells at the time the visit is made it's rather embarrassing for them and they object to the area being wide open. Insofar as visiting in the areas and the rooms where the persons are being questioned, I'm sure that most stations and most police forces would agree to do that with some notice.

**Mr. Ziemba:** That's the point though.

**Mr. Chairman:** Excuse me, for the purposes of Hansard and for the sake of the members of the committee, we have at the microphone Judge Thomas Graham, chairman of the OPC and Mr. Shaun MacGrath, commissioner. Continue on, Mr. Ziemba. I'm sorry for the interruption.

**Mr. Ziemba:** I was going to comment on the last point that Judge Graham made, provided that there's notice. It seems to me that the Waterloo situation that is before an inquiry right now might not have happened if the MPP, Mr. Breithaupt, had access and if he was called that night and went out there and saw what looked like improper activity. I don't think it's an unreasonable request. I'm not suggesting that we provide access to the public but to representatives of the public in those areas where there have been problems.

In my area, I had one constituent who complained about racial attacks and we were finally able to deal with it, but only when I went with him and introduced him to the police and sort of established a rapport there. Up until then he felt intimidated. He didn't feel at home there. I can understand people being picked up and perhaps their loved ones wanting to make an inquiry on their behalf, wanting to make sure they were all right, not prepared to take the police officer's word for it that things were all right and asking their elected representative to go out and check the situation. Would you object to that?

**Judge T. J. Graham:** There is certainly merit to what you're suggesting. I'm sure that the chiefs of police, if we were to circularize them, would agree to—

**Mr. Ziemba:** Could you do that?

**Judge T. J. Graham:** —some type of a system whereby a member of the Legislature could visit.

**Mr. Ziemba:** The way it works in a correctional centre is the superintendent or deputy superintendent will take you around and ask the prisoners if they object to an MPP visiting that cell block. If they do, he just tells us and we don't visit it.

**Judge T. J. Graham:** Of course, there's a wee bit of difference here. In a police station, the cells there are only holding cells, whereas in the correctional institutions itself we always have persons who are incarcerated there. I believe it's a wee bit different from what a holding cell would be as far as being open to inspection.

**Mr. Ziemba:** As far as the interrogation rooms are concerned, I don't suppose there would be too much objection from the person who is being interrogated if his elected representative was assured that he was receiving proper treatment. Will you consider that?

**Judge T. J. Graham:** I will certainly check it with the chiefs and see if we can get their co-operation on it.

**Mr. Ziemba:** Could we get a commitment from the Solicitor General that once this canvass is complete and you decide to establish this new procedure, could you circularize the members with your offer of access? That would be very good, thank you.

**Mr. Chairman:** Before going on to Mr. Bradley, the minister has made a request which I think is reasonable that this document that is being circulated to you has no address and we would appreciate an address being supplied to the minister for Mr. Nykyforchyn.

**Mr. Batchelor:** I will get it for you.

**Mr. Chairman:** Thank you.

**Mr. Lupusella:** Can the members of this committee get a reply from the minister when you take a look into the allegation?

**Mr. Chairman:** That was indicated, Mr. Lupusella, when you were out that a reply would be going to the chairman and then I will in turn supply that to the committee.

**Mr. Bradley:** I want to direct a few comments to the minister and perhaps get a brief response from him regarding the takeover by regional police forces of territory formerly policed by the Ontario Provincial Police and the problems ensuing there. I am asking that the minister prevail upon the Treasurer, or whoever is in charge of that government, to perhaps reverse this policy.



I know that Mr. Handleman has spoken very highly of the smaller police forces that he has within his area. Many people within the region of Niagara, for instance, felt that the Ontario Provincial Police had that local identification which was necessary to have a good relationship with the community. They are a well-trained force and have an excellent reputation and they have also been familiar with the territory.

By having the regional police take over, the conversion is very costly and in my opinion very unnecessary. You get the new headquarters erected. That's almost automatic. I won't call it a palace, a new headquarters, nicely appointed. You have removal of the officers from urban areas so that they can cover rural areas; at least the removal of some officers, not a great number. You have all the promotions that have to take place because your regional police force becomes larger and therefore you must have more staff sergeants, et cetera.

The empire gets built up and naturally the larger the regional police force the more they would like to compare their wage and salary structure to large police forces such as Calgary or Metropolitan Toronto or something of that nature. I always felt that the Ontario Provincial Police adequately handled these areas and it was a waste of the taxpayers' money, at least at the municipal level, to have regional police forces take over. Perhaps I can get a brief comment from the minister on whether he sees any end to this trend towards regional police forces taking over where provincial police forces formerly patrolled in rural areas of this province. I wonder whether he sees any glimmer of hope that this trend will be stopped and perhaps even reversed.

**Hon. Mr. Kerr:** Mr. Chairman, as you know, when the regions were formed, particularly, for example, Niagara, there was also the formation of one regional police force.

**Mr. Bradley:** That was a good force.

[1:15]

**Hon. Mr. Kerr:** In that area, like in a lot of the areas, you had three or four urban police forces and then you had the OPP policing the townships. Sometimes this was done free, sometimes by way of contract with the OPP. I can recall meeting with a number of local politicians from the area who were complaining about police costs, particularly those councillors or aldermen who were representing whole townships and they were saying: "Our people are paying the cost of the regional force and they are not getting policing in our area by the regional force." I

would say: "Well, you are getting policing and I assume you are satisfied with the policing, although you are getting it from the OPP and you are getting it free. And I could never seem to win that argument. They say: "Well, we're paying for the regional force; therefore, we should have the regional force."

Of course, as a result of that, a move was taken, not only in the Niagara region but in other new regions such as Halton, to expand the regional force and that meant that the OPP then reduced their complement in those areas. There were startup grants at that time, extraordinary startup grants, the grants for regional forces are higher than in other areas. They went, for example, from \$3.25 in 1972 to \$15 in 1977. This, of course, was to assist the region in establishing the force. There is always a certain amount of extraordinary costs; it meant more hiring, recruitment and, therefore, the cost of policing generally would be increased in that region.

The OPP did cut back on the size of their detachment in those areas and pretty well concentrated on traffic, particularly on provincial highways in the area, so I don't know whether they particularly reduced their force. I think maybe they reassigned those officers somewhere else.

The only thing I would say is that in spite of the fact that the OPP have an excellent force, a highly trained force, and their presence was always welcomed by the rank and file of the people in those areas, I think our regional forces as well are coming along and now have established some excellent reputation and are being accepted pretty well all over the region. I think, in the interests of efficient policing, in most regions it is better to have one force, particularly in law enforcement, outside of say the Highway Traffic Act or provisions of the Criminal Code dealing with traffic offences.

Rather than have any conflict or overlapping or duplication, it makes sense to expand the regional force within the region on a fairly long-term basis so that the cost does not hit the ratepayers in that area too hard in a very short period of time. So I am sure that eventually, as has happened in Hamilton, the regional force will expand to cover pretty well the whole region; and, again, it is because, as I say, there is a feeling by the local representatives that if they are paying for policing for a regional force and somebody in the outreaches of Pelham is paying the same as somebody in downtown St. Catharines that they should receive the same service. And that is something I suppose we can't argue with.

**Mr. Bradley:** Except they were receiving that service before—

**Hon. Mr. Kerr:** Right.

**Mr. Bradley:** —but you would never convince them of that. That's right. Thank you.

**Mr. Chairman:** Thank you, Mr. Bradley.

Before we take the vote on a matter of procedure, we do have again, tomorrow, Bills 7, 8 and 9. It looks as though those bills will go at least another two sessions, if not longer. Friday morning we will be dealing with Bill Pr13 and Bill Pr26. I expect that I will be meeting with the House leaders either this afternoon or tomorrow, but it looks very much as though you people should not be planning too long a vacation after the House adjourns. We are going to be assigned a very, very heavy work schedule for the summer, so I hope none of you are planning on booking cruises for August or September. I'm just giving you a warning, and I'll have more details on that tomorrow.

**Hon. Mr. Kerr:** Take July off.

**Mr. Chairman:** They might take two or three weeks when the House adjourns on June 23, assuming it does adjourn at that time. That's a warning not only to you, but also to your wives because I would like to at least have a quorum when we start up again very actively at the end of July. So I'm giving you due warning.

**Hon. Mr. Kerr:** You heard that, Bernie, eh? Read, mark and inwardly digest.

**Mr. B. Newman:** Okay, talking about the summer, remember it's a family time.

**Mr. Chairman:** He's not a member of the committee so I wasn't addressing him.

**Hon. Mr. Kerr:** We've confused Hansard.

**Mr. Chairman:** On another personal basis, no doubt we'll be able to see one another tonight at the fire fighters' convention, and if not we'll meet tomorrow after orders.

**Hon. Mr. Kerr:** Mr. Chairman, before you adjourn or call the vote, I'd like to personally—and I think probably on behalf of the officials of the Solicitor General's ministry—thank you as chairman. You've done an excellent job. You've been fair, unbiased, and there have been times during the course of these estimates when you had a full house and a lot of activity and "you done good."

**Mr. Chairman:** Thank you. I trust that I can quote you in my campaign literature in the next election.

**Mr. Lupusella:** I have a few questions to raise under this item before we pass this particular vote.

**Mr. Chairman:** Would it be possible for you to just state your questions and then the minister can get back to you in writing? At least then they do go into Hansard, but we will not take any further time with them. Would that be possible?

**Mr. Lupusella:** Okay, that's fine. The first question which I would like to raise is in relation to the emergency communication branch which is located at Jarvis Street. I'm sure it's under the jurisdiction of the Ontario Police Commission or the OPP.

**Hon. Mr. Kerr:** Emergency communications branch?

**Judge T. J. Graham:** None that we know of.

**Mr. Lupusella:** Inspector Scott is in charge of this particular branch.

**Hon. Mr. Kerr:** That's the RCMP on Jarvis.

**Mr. Lupusella:** I see—it's the RCMP. I would like to share my position with the Solicitor General. Maybe it's appropriate to get in touch with the RCMP, because when the people are calling in an emergency, everything is taped there. But after one month, the tape is destroyed. I don't think it's the RCMP that's involved.

**Judge T. J. Graham:** You may be thinking of the Metropolitan Toronto Police emergency number. They handle that at Jarvis Street. They're at Jarvis Street right now.

**Mr. Lupusella:** Right, that's correct. It has nothing to do with the RCMP.

**Judge T. J. Graham:** No, that's true.

**Mr. Lupusella:** I'm not sure why the tapes are destroyed after one month when usually trials take place after three months. My suggestion is to store those tapes for at least one year, and after one year you can reuse those tapes. I would like to know the position of the Solicitor General in relation to that. I don't think one month is long enough to keep the tapes. One year is more appropriate, because trials don't usually take place until after three months. I hope you are going to change this procedure.

**Hon. Mr. Kerr:** I'll look into that and find out why this particular procedure is followed. I would think there would be a number of tapes accumulated over a short period of time. That may be the reason for getting rid of them. Maybe since Watergate they just don't want to keep them around too long.

**Mr. Lupusella:** No, but after one year you can reuse the tapes.

Hon. Mr. Kerr: I'll look into it for you and report back to you.

Item 1 agreed to.

Items 2 and 3 agreed to.

Vote 1603 agreed to.

Mr. Chairman: This completes consideration of the estimates of the Ministry of the Solicitor General.

The committee adjourned at 1:25 p.m.

## CONTENTS

Wednesday, June 7, 1978

Ontario Provincial Police, Management and support services program .....	J-181
Office of the commissioner .....	J-181
Operations program .....	J-203
Law enforcement .....	J-203
Supervision of police forces program .....	J-206
Ontario Police Commission .....	J-206
Adjournment .....	J-210

## SPEAKERS IN THIS ISSUE

Bradley, J. (St. Catharines L)

Handleman, S. B. (Carleton PC)

Kerr, Hon. G. A.; Provincial Secretary for Justice and Solicitor General (Burlington South PC)

Lupusella, A. (Dovercourt NDP)

MacBeth, J. P. (Humber PC)

Newman, B. (Windsor-Walkerville L)

Philip, E.; Chairman (Etobicoke NDP)

Taylor, G. (Simcoe Centre PC)

Wildman, B. (Algoma NDP)

Ziemba, E. (High Park-Swansea NDP)

### From the Ministry of the Solicitor General:

Edwards, L. H., Director, Financial Services Branch

Graham, H. H., Commissioner, Ontario Provincial Police

Graham, Judge T. J., Chairman, Ontario Police Commission

Kendrick, R., Detective Inspector, Criminal Investigations Branch, Ontario Provincial Police

Oliver, A. G., Inspector, Traffic Investigations Branch, Ontario Provincial Police

Russell, A. A., Deputy Minister

### Witness:

Batchelor, D.





No. J-9

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of Correctional Services



**Second Session, 31st Parliament**

Wednesday, June 14, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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# LEGISLATURE OF ONTARIO

WEDNESDAY, JUNE 14, 1978

The committee met at 10:09 a.m.

## ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

On vote 1501, ministry administration program:

**Mr. Chairman:** Do I have any substitutions? I am going to recognize a quorum. With the permission of the committee, I believe the minister would like to start by introducing us to a film he has brought along.

**Hon. Mr. Drea:** The film is in lieu of an opening statement. It takes approximately 30 minutes. The film was made in 1974 for the ill-fated United Nations conference which never took place. The film was paid for by us, although there was no interference or suggestion or anything else by us. It is totally the product of the film maker who has made previous films for us.

The reason I want to show it to you—and probably the reason it hasn't been shown before—is that it shows very much what is wrong with the traditional system in a manner which I think everybody can grasp. Also the reason I want to show it to the committee is that we're in the process of negotiating with commercial people, as we want it to have the widest possible distribution in the province, and not just for education or so forth.

I may say it has been rated by the board of censors for educational purposes. I see Mr. Sweeney here and I know his interest in education. There will be an alternative sound track because of some of the language. We can bleep that out. We'll keep one restricted for professionals and there will be an alternative sound track provided for general distribution.

**Mr. Handleman:** What is the rating?

**Hon. Mr. Drea:** With this sound track it is R, which would preclude it from anyone under 18. For the televised version and so forth we'll bleep the sound track and bring it down to an A, which is general viewing.

(Film being shown).

On resumption after film:

**Mr. Chairman:** Do you wish to say something, Mr. Minister?

**Hon. Mr. Drea:** The import of that film, of course, is the release from the institution without supervision. That's why we're going into parole. Effective September 1, the federal government will be allowing us parole over our own inmates—that is, up to two years. Instead of a release from an institution like Guelph, it will be a pre-release. If a prisoner was from the Hamilton area, it would probably be pre-release; he will be in the Hamilton detention centre; he will be working on a temporary absence scheme for the last six, eight or 10 weeks of his stay in there.

If he goes out on parole, he will be living in a supervised residence where there will be facilities to make sure he is employed. He will have to have employment prior to his parole in order that he can pay board.

In the supervised residence, rather than a heart-to-heart chat, if alcohol is his problem—and I'm sure it would be no news to him. In the supervised residences in the community we can send them to the proper community resource whether it's outpatients or whether it's AA or whether it's a line of things. That is the old system, and it's obvious that with his tenure, he was all the way around our system; after this, obviously he was going somewhere else. He went to Millhaven. He's obviously upgraded.

Under the federal system, he is obviously released in a situation like that without supervision and without alternatives and without making sure that he is employed. As was said in the film, there is a three to one chance that he's going to come back. He is not a difficult case; other than a bar-room brawl, he's never been even accused of anything that tends to be violent, according to the rap sheets. As I say, 90 per cent of our cases are alcohol-related and I just don't believe that you can continue on sending people out into the streets, particularly in the light of today's economy and today's social conditions, even somebody who is voted by the other inmates as most likely to succeed, without asking for it. So, I think, there are a lot of things we're doing: the CRC for the sentenced inmate, the assumption of parole with the parole residences which will be separate from the CRCs because they will deal with sentenced inmates, and the community service orders in lieu of incarceration.



The difficulty is that once an inmate is institutionalized it's just like any other type of person who is institutionalized: there is a tendency to come back. Because you don't get into trouble when you're in the institution, it's a case of not being able to cope in the community.

**Mr. Chairman:** If any of the MPPs who are not members of the committee want to join the committee, they're more than welcome to come around the table, or stay where they are. We'll more than welcome their questions. I don't have anyone on my list.

**Mr. Bradley:**

**Mr. Bradley:** Mr. Chairman, unless somebody had some questions on the excellent film that we've just seen, I am prepared to begin my opening statement. Maybe some people might have some questions on the film. The minister first might be appropriate.

**Mr. Chairman:** Do I take it that the minister has no opening statement except what he's given?

**Hon. Mr. Drea:** That was it.

**Mr. Chairman:** Mr. Bradley.

**Mr. Bradley:** I'll begin, Mr. Chairman, by once again, this year, commending the Ministry of Correctional Services and the Minister of Correctional Services for continuing in a progressive manner many of the initiatives that have been called for in the past by members of the opposition and by members of his own ministry who for a number of years have recommended that various ministers initiate new programs.

[10:45]

The minister has made it a very high-profile ministry. There would be some who would impute political motives to that. Naturally, I wouldn't be so suspicious of the minister's motives, because I was one who suggested last year that, if a minister is going to initiate programs that might be controversial or breaking new ground in the community, that indeed he had to publicize them. The only way to get the necessary publicity is to personalize the ministry to a certain extent. Nevertheless, the minister has been very careful to give the lion's-share of the credit to his deputy minister and the other members from the very top echelon to the very bottom echelon in the Ministry of Correctional Services. I think this is to be commended as well.

The members of the House appreciate the statements the minister makes to the House to keep us all informed on an ongoing basis. I suppose there are other ways of making announcements, but we in the House tend to

be rather jealous of the fact that we should be the first to hear of any new initiatives or new programs, and the minister has been careful to do that.

I also commend him and the ministry again this year for allowing a pre-briefing before the estimates began, allowing those of us who participate, both the critics of the NDP and of the Liberal Party, and any interested members of the justice committee, to go over to the building, sit down with several of the officials of his ministry and to explore certain areas that we feel we might want to explore in the future.

It sounds awful, I suppose—maybe it doesn't sound so awful, but it is different, let's say—for opposition critics to be heaping praise upon a minister or a ministry, because it is the defined role of the opposition to be critical. However, I think the word "constructively" is necessary before that word "critical" to put it in the proper context.

One of the advances we have seen, and which we encourage the minister to continue, is the heavy movement into community resource centres. I would be interested in having the minister elaborate, later in the day or perhaps at a future time, on the statement that many of these centres will be radical departures from the traditional model. I don't know whether that means from the traditional model of community resource centres or from the traditional model of institutional handling of inmates. Nevertheless, we in the Liberal Party certainly feel that community resource centres have been an excellent step in the right direction.

Looking at a ministry pamphlet on the advantages of the community setting as opposed to the institutional setting somewhere away from the community itself—I think we define the community as being people as well as a geographical location, because you can locate an institution within a community and yet have it isolated from that community—the pamphlet, entitled *Community Resource Centres*, lists three distinct advantages of them.

One advantage is that an inmate taking part in a community-based program has the opportunity to establish himself in the community prior to the completion of the sentence. The film, I suppose, while it doesn't deal entirely with that, does indicate a very great need for an inmate to establish himself in the community before going back into a community where his only friends might be those who are people who have been inmates in institutions or those who have been partially responsible for his getting into an institution in the first place.

A second advantage listed is that it permits employers, educators and other members of the community to play a part in the rehabilitative process. I think we all recognize that the correctional services officers and the resource people within the institution do play a role there, but certainly it's not the same kind of role that can be played by those who are in contact with people who are not inmates of institutions or have never been inmates in institutions. We talk about educators who deal with "normal" people in society as well as the police officers or potential employers. Once again, the film indicated the great need to have a person go to a place of employment. Too many times we feel that when a person is released he is simply left on his own, perhaps to the resources of his family or the resources of his friends, many of whom you would not call the best in terms of rehabilitation.

A third advantage of a community setting listed is that the centre provides an environment that for motivated individuals is more conducive to rehabilitation than an institutional setting. Naturally an institution, for most people—unless it's a federal institution; inmates usually have lots of experience by the time they get to a federal institution—is a little different, not necessarily, but in many cases the institution is a little different and a little more difficult for some people to adjust to, whereas when they can be in the community, in contact with people who are not educating them in the ways of crime but are educating them in the ways of real life experiences, this is certainly a benefit.

In a question I asked, I think as a supplementary, in the House concerning community resource centres, I mentioned that these are great in theory and are apparently working in the province, but we recognize as members of the Legislature that they are successful only if there are other resources within the community to deal with those who are located at a community resource centre. In other words, you have a John Howard Society, an Elizabeth Fry Society, or some other volunteer group that can be very much involved with the people, and that there are people within the community sympathetic to those people being there.

In many cases in the past, group home settings or institutions of this kind—if we can use the word "institutions" for a moment—have often been rejected by city councils because of the opposition of residents. Once again, I think the minister has gone out of his way to indicate to the community that

these people are carefully screened, that they are selected people who will go to community resource centres and be located there, that they will be under some supervision, albeit not the kind of supervision you might see in a medium or maximum security institution, that they will be receiving counselling, that they have a stake in the community by being located there and the chances of them committing another crime that would be injurious to anyone or injurious to the community as a whole is rather limited in this setting.

Both opposition critics last time encouraged the minister to continue even if there are some non-successes, some failures. There may be the odd failure. Many times the community reacts rather vehemently to a failure and a program is destroyed. With the personality of the minister, with the perseverance of his staff, one would anticipate that this will not be the case with the community resource centres we have at the present time.

A second program which is being encouraged by a couple of ministries—but I think much of the push is coming from the Ministry of Correctional Services—is that of work orders and the fact that there are alternatives. The minister has said—I recall reading in one of the statements he put out last year, Correctional Services update from September to December of 1977—"It seems to me a logical approach is to send only the violent to jail, those whom society must be protected against. I want the petty offenders to go to work in the community in lieu of jail."

We have been criticized as a country in the past for sending too many people to jail, too many people to institutions, compared to western Europe and other jurisdictions. The work order as ordered by a judge is an alternative to confinement in an institution. It avoids confinement in an institution and benefits the community, naturally, because works are being done that might not otherwise be done.

The program of community work orders is positive and worthy of mention again. One wouldn't anticipate that this would be the type of program that might be carried out, but I notice that in Maplehurst Correctional Centre on a one-to-one basis there is assistance to a child afflicted with cerebral palsy who requires a daily exercise program.

Thunder Bay Correctional Centre helps handicapped and disabled citizens. Inmates in Sudbury are helping with patients in the nursing home. Vanier Centre for women is working in daycare and nursery school program. Rideau Correctional Centre has one group of inmate volunteers working with

the retarded. Others are working at the Brockville Psychiatric Hospital.

Other programs include the maintenance of grounds at various senior citizens' homes; the cutting of firewood for the needy elderly; shovelling of snow; mowing of lawns for senior citizens; restoration of historical cemeteries for those who would be interested in that field; helping with the Grand River Conservation Authority; construction of a security wall in an institution itself; the building of recreational facilities at Millbrook Correctional Centre; and production of fresh vegetables for institutional use. I don't know if our farmers approve of that, but certainly this is a program to be encouraged.

All of these are positive steps. People in the past indicated that one just can't trust these people to do these kinds of jobs because they're not equipped in terms of their skills and their temperament to carry out projects or work orders of this kind in the community.

I know in my own community of St. Catharines one project which has been discussed is cleaning up the old Welland Canal lands. My friend, Mr. Swart, who sits beside me, knows that the old and the new Welland canals go through more than the city of St. Catharines. There is much work to be done there which, obviously, is not going to be done by the paid help of the government or by hiring people on the public payroll to do it. It's simply not going to get done if it's left in that regard. I think many are hopeful that there will be those who would be able to carry out labour of this kind in the community and benefit the community.

The minister has also pointed out that it benefits not only the community in the end result, but it also benefits the inmate himself in that he sees that he can be useful to the community. He may even acquire a new skill, albeit we're not really talking about a great educational process in this regard, I don't think. There may be some skills. He's certainly going to learn to work with others. There is supervision.

In the bill the minister has before the House at the present time to give the kind of safeguards the community requires, he has provided for an increased penalty for those who would break out of the work gang situation. If they break out of an institution, then there is a rather stiff penalty. If they are declared unlawfully at large, the penalty is rather minimal. Therefore, there's not a real incentive to stay on the work gang if one wishes to break away from it. This protects

the community and indirectly protects the inmate from his own desire to break away when it's not in his interest to do so. We feel that these projects are very useful.

The minister commented the other night that he was late coming to the House because of traffic as he had been honouring volunteers earlier in the evening. The tendency in all government over the last several years was to hire more civil servants to do the job. We have some excellent and capable civil servants who have been hired over the years. However, there is an emphasis, now that we are in a period of financial restraint, to more and more use volunteers from the community.

[11:00]

The minister and his ministry both have encouraged the use of volunteers. Certainly, we find it on a one-to-one basis—I saw this at the ill-fated Glendale institution, where there were volunteers who came in and worked on a one-to-one basis with those in that institution to assist them in acquiring some life skills and some basic educational skills.

It is interesting to note, and I don't know how many people in the province realize that—I suppose if they sat down and thought about it they would—most of the people we see in these institutions are those who have not been particularly successful in the regular educational setting. It is almost appalling to note—as I did when I was in Glendale, and I suppose it is an eye-opener—that there are many who are barely literate, who might have the skills of someone in grade four or five in terms of being able to communicate verbally or in writing. These people are obviously going to be at a great disadvantage and are obvious candidates for institutional care, in this case corrections.

Having volunteers come in from the community, as well as having regular staff, allows a better pupil-teacher ratio, if you will. It allows them to acquire at least some skills so that when they get out they are on a little better footing than when they went in.

I notice also that the minister has been careful to continue a program and to initiate new programs to deal with the native population of the province, ensuring that we have more and more native people working with native people. I think there was probably a tendency in the distant past to feel that the only people who could work with native people were those from the "civilized society" who could teach them some kind of middle-class values that might bring them up to the level of the others, so-called.



If that attitude was ever there, and I think it was in the distant past, it has disappeared now. The Solicitor General (Mr. Kerr) mentioned, for instance, that he has native Canadians working as officers under his ministry. We have native people working with native people under the Ministry of Correctional Services. Some wonderful programs, which the minister described to us during the last estimates and subsequently, are taking place at the present time in that regard.

I am also going to ask the minister to elaborate—although he has made statements so far in this regard—on the Shapiro report, which was a very expensive report that many in opposition, indeed probably many in government, questioned the cost and length of time it took, particularly the length of time. As a matter of fact, the minister was ahead of the report in many ways in implementing many of the subsequent recommendations that took place. I suppose this is to the credit of his ministry that he would be prepared to do so.

I personally still feel that the report took too long. I don't know why it took that long and whether there is justification for it. However, the cost, the minister has indicated, is not as out of line as people think in terms of what was ultimately prepared and what might be useful to others in other institutions, if not in the Don Jail itself.

The minister indicated that he was prepared to discuss the recommendations of this report both in the House and at length at any time in committee during the course of his ministry estimates. I, therefore, assume the minister will be discussing the Shapiro report and the discipline that took place with regard to certain of the officers in the Don Jail. I think it is worth mentioning that although there were those who were reprimanded and those who were disciplined, the minister stated that brutality will not be tolerated in these institutions.

At the same time, I think it is important to note that Judge Shapiro indicated that the majority performed their duties in a reasonable and humane manner, often under trying circumstances. The majority did this. I think those of us who called for the closing of the old Don Jail recognize that it is an understatement to say that they were trying circumstances.

I might note here as well that the minister has probably removed a couple of hours from the estimates, simply by closing the old Don Jail. I think every Correctional Services critic who came in spent an hour for each party describing the conditions in the Don Jail and imploring ministers to close it. As we men-

tioned, during the last estimates we commended the minister for finally doing what everybody else said should be done.

Perhaps the timing was right. I think the last minister—Mr. MacBeth, who is present today—also indicated his desire to close it, but the circumstances were such that he was not able to do it at that time. Fortunately, circumstances did change and Mr. Drea, the minister, was good enough to do that.

Hon. Mr. Drea: You know, you can help me now in my hour of need. The place should be demolished. It cost taxpayers an enormous amount of money. It is a dilapidated old dump. It will cost the taxpayers an enormous amount in the future which they could better use for some of the things you have mentioned, not in terms of the offender but of the community.

Mr. Bradley: I notice that the minister has continued to call for the demolition of that building, even though there are those who think it would be a good shelter for the humane society.

Mr. Sweeney: Give the humane society a million bucks, and let them build their own shelter.

Mr. Bradley: There are others who feel that it has historical and architectural importance but still want to use it for some other reasons.

Hon. Mr. Drea: Nobody who has ever lived in there, or had anything to do with it, wants to go back in.

Mr. Bradley: I note as well that the minister has indicated that as a provincial cabinet minister—never mind being the Minister of Correctional Services—he certainly could not recommend the kind of expenditures that would be necessary to save that particular building. Some of us, though, recognize that it does have some architectural merit. It is a matter of whether the expenditures would justify the maintenance of it. I hear the member for Carleton-Grenville (Mr. Sterling) making disparaging remarks under his breath, but we will allow him that.

Mr. Sterling: That's right. We made the same mistake in our bailiwick.

Hon. Mr. Drea: I'm telling you, that damn place will rise again unless it's knocked down. To give you an example: Two years ago in New York, The Tombs, which was the equivalent of the Don Jail, was closed down on the grounds that it was totally unfit for any type of human habitation ever, into the future. There was absolutely nothing that could be done with it. Now they are pumping about \$2 million into it, which will just

about give it a floor-scrubbing, and are going to reactivate it as the city jail for New York City.

When the inmates rioted and burned Collins Bay in 1962, Collins Bay was 90 per cent destroyed. The federal government moved the inmates to Millhaven and said they were going to demolish Collins Bay. Collins Bay is alive and well and filled to over capacity today, and the federal government is still thinking about doing something. The problem with a jail, believe me, is that once it has outlived its usefulness, unless you demolish it it comes back to haunt you. There is always a tendency that there is overcrowding someplace, and that just for a day or a week you can use it for some inmates. And once you put the next bunch of inmates back in there, you know, you are on a 50-year cycle.

**Mr. Bradley:** I promised that I wouldn't spend a lot of time discussing the Don Jail because it had been raked over the coals many times.

I want to move on and mention another aspect of Correctional Services. That is, the role of the Ombudsman. I note that the minister said the Ombudsman was worth \$10 million—I think the headline said he was going to save the ministry \$10 million. But as one who was involved in the newspaper business for years, the minister would know that headlines don't always tell the whole story. I prefer to think that he had said it is worth \$10 million, rather than that it would actually save \$10 million. As Mr. Yakabuski asked in the House; "Would you show us where this \$10 million is going to be saved?" I think it probably would be better if we asked the minister to indicate to us where he felt the \$10 million-worth had been got out of the Ombudsman, if he will.

The Ombudsman, of course, dealt with some problems that you are already dealing with. One was that problems have been compounded by staff shortages, inadequate staff training, and insufficient budget. I know you have taken steps in the right direction in terms of overcoming these problems, and I would be interested in having you, a little later on, elaborate on the degree of progress you think you have made as regards inadequate staff training, insufficient budget and staff shortages.

He described inmate overcrowding as one overriding concern. This wasn't simply a matter of saying it's for the convenience or the comfort of the inmates; indeed, it was to ensure that we didn't have flare-ups within the correctional services system.

The Ombudsman also mentions: "Prison terms imposed where some other disposition would suffice; intermittent sentences ordered in ignorance of the chaos they sometimes produce"—and the minister has said that before—"remands where the accused longs to be tried, or remands that involve offenders who are disruptive influences in jails and detention centres." He described that as a problem.

Mr. Maloney suggests that local bodies comprised of senior correctional personnel, judges, lawyers, crown attorneys, police and members of the Legislature be established wherever a jail, detention centre or other correctional facility exists. I'd like to know if any progress has been made in that particular area.

The Ombudsman also commented the remanded inmates "must be transferred weekly from the jail or detention centre to local courts . . . which involves the complete discharge-admission procedure being undertaken." The report points out that due to uncertainty about trial dates and the outcome, remand inmates "are more tense, restless and often the source of discipline problems for correctional officers." The Ombudsman recommends that court hours be extended and that "mini-courts" be established in various jails and detention centres.

The minister dealt with that last year and I would hope to hear a progress report from him on this to determine whether, in consultation with the Attorney General (Mr. McMurry), he has made any progress towards these mini-courts that might be established in the jails and detention centres, or whether the judiciary is as obstinate as ever on this particular suggestion.

Going on to other areas, I've been complimenting the minister quite a bit, but I do want to get some elaboration and clarification of certain statements that were made on an excursion to Georgia. Naturally, the media on occasion tends to select those items which would be most controversial to discuss, but there was some suggestion by the minister that it was too expensive to keep sex offenders separate and he planned to end the practice as soon as possible. He indicated it's been tried at one Ontario institution, but he refused to name the institution. Whether he wants to name the institution in the estimates or not, or privately to indicate the name to the members of the justice committee, I'll leave to his discretion.

I know that he did elaborate on those statements a little earlier on and clarified exactly what was being done, but I think for the sake of straightening this out once and for



all the minister should comment a little later on what he sees happening in terms of protective custody. We're not just talking about sex offenders here. We're talking about other undesirables within the prison system—informers and so on—whom other prisoners might consider to be undesirable.

Also, of course, there is the issue of the barbed tape which seemed to draw a lot of comment from the media. I know the minister will want to again clarify why he feels this is better than barbed wire or better than circumstances that exist in other countries where there are loaded guns.

**Hon. Mr. Drea:** Let's get it clarified. Razor ribbon is not barbed tape. Barbed tape is obsolete and useless, as is barbed wire.

**Mr. Bradley:** That's what we will want to have the minister elaborate on a little later, because I think he should have that opportunity to do so.

A press report also mentioned that "Drea made his comments while touring the Georgia Diagnostic and Correctional Centre, near Atlanta." They quote you here: "This is Ontario in a year," he said, looking around the facility. 'Straight, hard cell time. No TV, no nothing. You get your head shrunk.'"

Further: "Drea said Ontario operates a similar centre, the Ontario correctional institution at Brampton. This centre has frills such as TV and carpets which Drea intends to get rid of." I'd be interested to know whether you did get rid of those.

"The minister called for more spartan solitary confinement cells, smaller than those in Georgia."

Again, I'm quoting out of context, just as a reporter tends to quote out of context, but I'm sure we'll get some elaboration.

**Hon. Mr. Drea:** What's the use of putting somebody in solitary in a fancy cell and giving him cigarettes? That defeats the point of the exercise.

**Mr. Chairman:** Since those are very specific quotations and since the press is present, and I am sure the minister wants to answer your more general questions later, maybe he would like to address himself to those two specific questions rather than leave them up in the air.

**Mr. Bradley:** Good idea.

**Hon. Mr. Drea:** First of all in terms of razor ribbon: you don't have to take it from me, you can take it from the Ombudsman. If you want to read the chronology of certain institutions—Ottawa, Niagara, Cornwall, The Don, the new one at Cambridge—the fact of the matter is that we don't use the gun

in this province. We are not going to go the route of the federal government which now, according to the regional director, is employing sharpshooters, not only on the walls but in other places. We are not going to go to the gun.

Obviously our places have to be secure. Razor ribbon is an absolute deterrent. If anybody in here wants to see it I can arrange for some samples to be brought in. The fact of the matter is that where razor ribbon is used there have been no escapes. In Ottawa, if you read the Ombudsman's report, prior to the introduction of razor ribbon there were 18 violent escapes in a very brief period of time. I think you will recall many of them. It was a tremendous burden upon the Gloucester police where the institution is located.

In Niagara there was difficulty. The inmates do not attempt to penetrate razor ribbon for rather obvious reasons. This alleviates having the use of sharpshooters, which I am not going to have. It also is a reinforcement to the community that where we have a secure institution, and bear in mind that with the exception of about eight—in any event, every local jail has to be absolutely secure.

I know in the public view the local jail or detention centre is rather minor league in the system. It is not. It is the most difficult to control because it is not in a controlled environment.

Even in Millhaven with its special handling unit they are in control of their own destiny. They know who they are getting today and if they are overcrowded or something they just don't take them. You stay in the local jail. And the local jail, unfortunately, depends upon the occurrence—that is when you are brought in.

The difficulty is that the local jail in the past has had to handle everybody from somebody paying a parking ticket on up to somebody who will never even go into our system. They are so homicidal or pathologically deranged they are just held briefly with us pending a secure psychiatric examination. Then they are off into maximum confinement in a mental institution, most likely for life.

Therefore, in order to curb the ability to escape, and also to curb the tendencies of friends—in Ottawa remember that a sawed-off shotgun was brought into the institution, as well as arms, because of the lack of that type of deterrent, by people from the outside coming in. In Cornwall an inmate was assisted right over the wall and onto a motorcycle. He still hasn't been recaptured. The introduction of that type of deterrent does two things: nobody is inclined to go over the



wall; and nobody is inclined to bring things in over the wall which lead to violence.

It seems to me rather peculiar that the public or some people who want security, would complain about this. When it comes to the ultimate point of security, if somebody wants to try to get out, this method is far more humane than a sharpshooter. Once a sharpshooter makes his determination, as has been done in Millhaven and other places, it is a little bit late for why the person was attempting to do it. In this case they just don't attempt to do it. It is a very small price to pay, and it is, quite frankly, a very good deterrent.

And you want to know about barbed wire. Barbed wire anybody can go over. As a matter of fact, even a loose piece of clothing is sufficient for the barbs, or even if you want to take a chance on barbed wire it means only a few scrapes and so forth. Razor tape is a little bit different. Remember razor ribbon collapses on point of penetration and then it come back.

In terms of the sex offenders, it is not just a matter of economics. Statutory remission ends July 1. On July 1 there will be a simultaneous proclamation by the federal government and 10 provincial governments that it will be earned remission. The difficulty with the sex offender under statutory remission, or if you want to add on right up to those in protective custody—many who are in protective custody by the way are not informers or undesirables around institutions. They request it. In the past, if somebody wanted protective custody—just saying they wanted to get their heads screwed on right for a while—it was granted. Under statutory remission, that was fine. Remember, as long as you behaved yourself, whether you were confined in protective custody, which means in a cell by yourself, or as a sex offender segregated and allowed to do nothing, it didn't matter in terms of your sentence. You were going to get out roughly one-third before completion of the sentence ordered by the court.

Your difficulty with earned remission now is that if we were to carry on with that tendency, and automatically—the operative word is “automatically”—confine people to that situation, then they would never be able to have any opportunity to earn one second off of their time. This is because they would be contributing nothing.

The reason I say “automatically” is that in the field of sex offenders and deviant behaviour—even though we only do minor offenders—in any type of major sex offence, the person is put in the federal system or into the health system—it seems to me that we are

not playing fair with the public. We haven't been playing fair with the public for some time.

If that person is not responding and we just put that person off because it is convenient to us, what are we doing 18 or 19 months down the road when the law says we must release him? Bear in mind it is not like a mental health term which is until cured or with reasonable prospects of going back into the community. We have to deal in absolute time frames.

What we have done in more than one institution—three at least and probably more than that—and these are sentenced inmate institutions; you cannot do it in a local jail because once again, it is not a controlled environment, you don't know who you are getting. To have tried to integrate or to treat in a conventional fashion the four accused in the Jaques murder would not have been playing fair with the public. It would not have been playing fair with anybody. In a situation like that with great notoriety, where these people are still innocent and are really wards of the court who have been committed to us because they have refused bail, we have to go to great length to keep them separated and segregated from the rest of the inmate population.

Indeed, just as the police had to do, we had to take extraordinary means to see that they were not treated as conventional prisoners being brought on the regular route in the regular paddywagon, and so forth, into court. By the same token we have to segregate homosexuals. The reason for that is very simple: homosexuals and heterosexuals have never mixed in close confinement. The aggressive on either side quite often exploits the passive or the weaker and it is just something that doesn't mix in close confinement. That is continuous.

But in terms of the sex offender, we are taking those who have potential, who have responded. Remember, we have a major treatment centre in this field. If they have potential, we bring them gradually along in a controlled environment towards integration. If (a) we didn't we wouldn't be playing fair with them in terms of earned remission, and we wouldn't be playing fair with the public. We would just be taking them off the street for a period of time and then turning them loose and the results are almost guaranteed. We have had extremely good results with this.

The reason we are able to do it is, once again, because of earned remission and mandatory work gangs. And because we have integrated work gangs. The program has worked without a hitch. It is coming along.

I would prefer to give the names and the details of the institutions to the two critics privately. This is not because of the fact I am afraid of the other inmates. They know what is going on, because they get a printed sheet. It is that when you go into these programs saying that you have no control over who is sleeping next to you. Remember this is in a dormitory setting.

You are told in advance that violence will not be tolerated and the penalties will be very, very substantial. There have been no occurrences. The only problem is, once again, public opinion. No matter how desirable the inmate work projects are, in almost every case we are asked, "Are there sex offenders turned loose?" They are not. They are in certain work projects which are very tightly supervised and are not in populated areas. They are there, and I would be very glad to give those details.

And we have cracked down on protective custody. Unless there is a need for protective custody we don't use it. The reason we have cracked down is that, once again, it is hardly fair to the community, to the courts and the person. If you can't cope with the general inmate population, then you are not going to be able to cope on the outside.

I am not appreciative of the fact that someone who co-operates with the crown is automatically consigned by both our system and the inmates and invariably the public into the squealer routine. I find it personally very repugnant that someone who does his duty—you are supposed to testify for the crown—suffers penalties. In any event, that is the way of the world and we aren't going to cure that overnight.

But in terms of protective custody and being allowed a cell alone almost at whim—no, we don't want that. Once again, we can almost guarantee the results when that door opens. The public does not want us to warehouse inmates. If the public of this province wanted us to warehouse inmates, or to put them in cells and leave them there for the duration of their time, then the public could cut our budget probably about 50 per cent and would be justified in asking us to do so. That is not the history of the public in this province.

The bottom line as far as the public is concerned is that they don't believe total incarceration and nothing else will solve the problem. They want attempts made to solve the problem so that the inmate comes back into the community as an asset, or at least normal and capable of being an asset, rather than someone who has been physically lifted

off the streets for a period of time and is now thrust back on you.

The results have been very positive. We haven't had any difficulty. I am prepared six or seven months from now, when we have worked out a great many kinks or internal problems and watched earned remission, to give you chapter and verse. By that time it will have extended into other institutions. It cannot exist in a local jail where there is a mix.

One reason is the courts quite often order us how to keep a remand inmate. Sometimes they don't even give us a reason—for example Rallo, who was convicted in Hamilton. Just before the end of his trial, even though he had been out on bail Mr. Justice O'Driscoll ordered him into custody, did not give a reason, and said he was not to have eye contact with anybody except a correctional officer, which was an impossible condition in the old Barton Street jail. In any event, we had to lock up Mr. Rallo for, I think, the last three days of his trial—something like that. I don't think there was any danger to Mr. Rallo in terms of that jail corridor, but this was the order of the court.

When you remand inmates, we can't vary the order of the court. So in terms of the local jail, it is not there. In terms of the sentenced inmate where you have a controlled environment—indeed, in the future we can deal with some of the residents with potential at the parole end or maybe at the sentenced inmate end. Those with potential we want to draw to the attention of the court.

It is not doing anybody—the community, that person or the victim or future victim—any good to sentence them off to warehouse them. If they are showing absolutely no potential and we can show that medically and psychiatrically and whatever way they want to do it they should be diverted into the health system the next time around and they can be put into a total treatment unit.

[11:30]

Even in the case of a minor offence where maybe there wasn't even physical contact—maybe it is a degree of exhibitionism or gross indecency—there is still a victim. That victim is invariably a young person.

I don't think it's fair to keep this endless parade going without doing something about it. If we can't do something in the correctional system, then surely the optimum situation is get them into a health facility until there is a reasonable expectation that they can cope again in the community. That's what we do with the very notorious, who may not yet be offenders, in this field.

The other thing I would just like to mention to you while we're here is the radical departure on the CRC. I can explain it very fully. Up until now, it has been almost a pre-release residence, and people were working and so on and so forth. As you know now, a number of youthful offenders—those aged 16, 17, 18—will never see the inside of an institution in that type of situation. They will go directly into a CRC. That's one departure.

Secondly, the restitution centre will be a CRC operation. Instead of being sentenced to imprisonment you will be sentenced to restitution, you will work out of the CRC and pay back your victim, et cetera. Then, even in terms of sentenced inmates, there are two very radical departures.

The first is the farm that will be operated by the John Howard Society under contract to us in the Thunder Bay area, where they will be living outside of the institution, under contract in a farming operation in the summertime. In the wintertime, they will be doing community work. That will the first time that inmates will be sent to a CRC with no expectation that they will ever be gainfully employed. In most cases now in the CRC they have a job, they come back there and sleep, or they're going to school or something like that.

Then probably the most radical departure which we have now arranged is that we are going to build a CRC within the walls of an institution. The CRC will be placed in the Guelph Correctional Centre. The people who are working in the abattoir, as you know, and are gainfully employed, because it's a mixed labour force will no longer go back to cells at night, or be under direct total institutional control. I guess the superintendent will be in charge of the CRC as he is elsewhere. In that case, Mr. Mott, from Kitchener, who runs Kitchener House now, will expand his operations. There will still be Kitchener House, but inside the complex at Guelph there will be a CRC for those who are gainfully employed in the abattoir. We have never had a CRC inside an institution before. It has always been an adjunct. So those are the radical departures.

The system, though, is not going to change. The private social agency, whether it's an umbrella group such as the Salvation Army, St. Leonard's House, the John Howard Society or Elizabeth Fry Society or what have you, or even an ad hoc group like Ken Mott's group in Kitchener, which is an ad hoc group, will continue to operate. The superintendent will have supervision for certain things but they will continue to do it on their program

basis. Even though these things are taking place in terms of the functions of the CRC, the principle and so forth will remain.

I think personally that's why we are successful, because it has been run by the private social agencies. The departure is simply in terms of what is going on there. It's not just going to be a sleeping place and a counselling place, where you are employed elsewhere. You may be into a totally different type of environment there, but it will still be run by the private social agency or the private social group under contract to us with their program. You see, previously we never had real legislative authority. I wish you would hurry up and pass the bill. We are signing contracts, and when we are into such things as restitution and so forth it isn't merely the collection of board, which I don't think there has ever been any argument about, it's the collection of the entire cheque, plus board, out to the victim and so forth.

The restitution projects that have been attempted in the United States have not, by and large, been successful because they haven't followed this CRC concept. It is our opinion, from our own people, that in all of these other approaches the fundamental thing is a very strong CRC and that these things can operate in that environment. Therefore, within about another three or four months such things as Stanford House, which is run by the Fortune Society, will be a total restitution centre but it will still be a CRC. It's the Fortune Society's CRC, not ours.

It was merely the concept. We are not going to run them. When we assume parole and go into funding halfway houses, we will do it on the same fee-for-service basis. We won't do it the ComSoc way or the national parole way or anything else. Having the community operating it, regardless of how they operate it or under what title, is a much better, much more practical and much more business-like approach. We will do that the same way in the halfway houses.

**Mr. Bradley:** I thank the minister for elaborating on that. It was appropriate to the suggestion of the chairman that they do so at the present time, being rather a controversial issue.

**Hon. Mr. Drea:** If I could just say something on the CRC again just for a moment, you raised the question of zoning. In fairness, we don't proceed the way other ministries do. It is up to the group that's doing it locally to come to us with the proposal, which must include the zoning. It's our feeling that if it's going to be a community resource centre—and the operative word is com-



munity—it must have community support. If you are into a zoning fight, it just doesn't work because people start fingering the place and it is not part of a whole community.

I may say that in Metro boroughs they are beginning to take the load off the city of Toronto and are beginning to bring in approaches not only for ours but for all types of group homes. Across the province, a great many municipalities that used to pass a by-law or a resolution saying they didn't want any are taking them on today. What they really want is some planning and zoning controls so that it doesn't become ghettoized.

The other difficulty, which I think is fair to the community, is that it doesn't want something on a residential street that sticks out like a sore thumb. In other words, if they are all single-family bungalows that could accommodate six people, you don't want to start combining three or four bungalows into a place that will have 48 people, because you are not in the community any more. You have just built another institution. We have had great success with municipalities, councils and people. It is the responsibility of government and the appropriate ministry or ministries that are interested in this, because there are more than ours, to go out and talk to the taxpayers exactly the same as a developer would if he wanted a rezoning or something else, to convince them that the project is good for the community but it's going to require some legislative or attitudinal change. This is what we are trying to do.

In the past, the difficulty has been that, wham, the place was established right smack in the middle of the neighbourhood. In some cases, the people said that's against the zoning. They were told, "It's the government. Lay off. We are not going to do anything about it." If you take that approach, it may look good on paper to have got another one, but the place isn't worth anything because the community is going to be hostile. If the community is being hostile, then what's the sense of putting it there? You are far better off to get community support.

It's not just resources in terms of the social agencies. It's what resources are available in the community. If you have excellent community resources in alcohol, drug, emotional and family counselling—all of this type of thing—then by all means you should try to go into the community. You will invariably find that where there are resources the public is not concerned. You get into other difficulties when there aren't many resources. The public says, "Do you really have to

come in here? There are not enough resources for non-offenders while here you are tightening the load on us.

In the north, when we go in with these things, we bring resources with us. It's a two-way street.

It's not just the resources that are provided in terms of the agency. There have to be other things. In places like Toronto or Hamilton or Ottawa or London or Windsor that have facilities for the general population, they are very good. We certainly take a look at what ancillary things the social agency can draw on because we don't expect them in terms of their limited staff and their budget to be able to produce a mini-program for everybody who comes in there. That's why we want it in the community.

I think the failure in the past has been that within the institution we tried to develop mini programs that would duplicate what was on the outside. When you make a mini-program you obviously can't fit everybody in. As you said, the bulk of our people have not made it in the school system, regardless of whose fault it was. Here we are going on to do one other thing.

Mr. Bradley: To come up with—

Hon. Mr. Drea: —and the rest of your question I will discuss later.

Mr. Acting Chairman MacBeth: Mr. Drea, you didn't even give me a chance to get my name on the record.

Hon. Mr. Drea: Mr. MacBeth has been the chairman.

Mr. Bradley: To go back to compliments or to agreement with policies—

Hon. Mr. Drea: May I say just one thing. I'm sorry for interrupting you, but I know some members may want to go elsewhere. As you know we are obligated to give detailed responses to the Ombudsman on his report, and many of them are technical. They were physically handed to the Ombudsman yesterday. Out of courtesy I want to make sure that he had them first, because the legislation provides that we do respond to him. Don't look at me like that; that's the way it is.

Mr. M. N. Davison: I'm sorry. I came in late in the conversation.

Hon. Mr. Drea: Oh, no. This is the Ombudsman's jail report.

Mr. M. N. Davison: It's the correction. The big white and red one?

Hon. Mr. Drea: Yes. That we paid for; very cheaply.

Mr. M. N. Davison: And released?

**Hon. Mr. Drea:** Oh, yes. Well, there are responses required. And that has been handed to the Ombudsman, as of yesterday, so we'll be prepared to give you the whole package any time now, so you can discuss it the next time and read it through.

**Mr. M. N. Davison:** That's a very speedy reply.

**Hon. Mr. Drea:** Many of them are technical ones, as you know. Some of them were outdated because of the time span for study; but in any event they were all replied to in there. The other general ones you wanted are replied to directly, but the specific ones you can have in advance.

**Mr. Bradley:** The statement you made on June 9 in the House concerning those persons serving intermittent sentences paying a portion of the cost of housing them in correctional institutions: I don't know who in the province would object to that. It seems to me it's time that happened.

**Hon. Mr. Drea:** It's 685.

**Mr. Bradley:** I know the people that you have under the temporary absence program—irregular inmates—certainly have to pay \$35 a week?

**Hon. Mr. Drea:** No, I'm sorry. That's a mistake we made. It's \$5 a day when they're working. So it's \$25 a working week.

**Mr. Bradley:** Okay.

**Hon. Mr. Drea:** Many of those people are TA'd on the weekends anyway. They're not physically in the institution. So we made it \$5 a day.

**Mr. Bradley:** I notice you now require they pay \$5 for each full day served in an institution, or \$10 on the weekend. I also note that you have made an exception for full-time students who would be attending these secondary schools, colleges and universities. And I think the public certainly would support this in that they are supplying certain facilities for people who have committed a crime against society, or broken a law and are therefore required to be punished in some way. It's a different way. I know these intermittent sentences cause problems for you sometimes, because you don't know who you're going to get and when you're going to get them sometimes. But, in terms of allowing the person to keep a job, that's certainly a positive step.

**Hon. Mr. Drea:** School, or trade school?

**Mr. Bradley:** Right. Nevertheless, I think it does instil some responsibility and does alleviate a little bit of the taxpayers' concern when you ask the offender to contribute towards his room and board, so to

speak. I don't know whether you're going to get much criticism on that, except from the people who have to pay the bill.

**Hon. Mr. Drea:** I'd like to emphasize that the reason for the \$5 is that it's just about the cost of the food. We don't want to get into the position where you're paying for the cost of your supervision.

**Mr. Bradley:** No.

**Hon. Mr. Drea:** That is a public responsibility, and I don't want to get into the systems they have elsewhere in the world, where you're paying for some of the supervision. Whether you want to call it a guard or correctional officer or what, that's our responsibility.

And also the example of the people in school. As you know, on the CRCs, when they're working, they pay board. And many of the men CRCs are full-time students at some level or other. So they are not charged. And neither are those in institutions who go out daily—although there are not too many—who go out daily for full-time education, if you want to call it that. And the weekend sentence, quite frankly—not so much with the impaired driving, but with narcotics or certain other almost mandatory terms—that's where you get into secondary and other types of school.

The reason they were put on intermittent was obviously to keep them enrolled in their particular program in the schools. It's the same as it is in the CRC, so it's quite consistent. I don't know why we weren't doing it before, because it's quite consistent throughout other types of sentences.

I think also you're quite right, regardless of my feelings about the inadequacies of intermittent sentences; particularly with regards to alcohol abuse, because there's nothing we can do for a person on Saturday and Sunday in terms of getting him into a program or something else.

[11:45]

The fact of the matter is that the courts, because of the economy, when they sentence you on an intermittent basis—oddly, in the north they're not even sentencing on the weekends; they're giving us rather peculiar sentences, such as "this person will serve Monday to Friday and be released between the hours of 6 a.m. and 6:30 p.m.," and change it around because of shift work. When that is done by the courts, the person automatically continues with the company.

The problem with putting in a recommendation for a temporary absence, which we will grant, is once that occurs the employer has to agree in writing to take him

back, and in a great many cases the employer is not willing to do that. It is a very substantial sentence, particularly in the Sudbury area right now, or in the Sault or so forth, if you lose 15 years of seniority; that is an almost appalling sentence.

Therefore, until there are certain things done outside which we can't do—we've been urging the labour movement to get clauses put into their collective agreements, but that's over a span of time; they do not all come up for negotiations this year—the intermittent sentence is going to be with us; so we have to face up to it.

The other reason for the money is that we want to get across that this isn't just some place you go on a weekend. You don't walk out at 6 o'clock Monday morning, or whatever time you do walk out, perfectly free to do whatever you please. You've got to start assuming some responsibility. Some of these people are on their fifth, sixth or seventh impaired sentence within a very brief period of time.

These are mandatory sentences, and I don't really think the Criminal Code is going to be changed in our time to remove mandatory sentences for impaired, because the public has views. I don't think that sentence is as productive as a community service order, where you are required to attend every night upon AA, outpatients, or particular types of counselling, which I think would be far better for the public. In addition, the federal government is not prepared to go for removal of those now. So we have to do something in the intermittent area.

**Mr. Bradley:** Just to complete my initial remarks, and I know Mr. Ziemba will have questions and want to continue, I will be wanting to deal in some detail with the Glendale Adult Training Centre and the placement of people, both the inmates and the employees.

I also want to get a comment out of you later, because I will be heading back to your native town in a few minutes, on the statement that appeared in OPSEU News. It talks about your program of deinstitutionalization of people: "Experience in other jurisdictions, particularly California, New York state and Minnesota, indicates that deinstitutionalization, when carried out by a government whose prime consideration is cost-cutting, merely dumps people needing help out into the street or turns them over to private operators for exploitation. OPSEU members stand to lose jobs through this process, but the unfortunate will lose the services they depend on and the community will face increasing

problems caused by a lack of professional supervision."

I know you will perhaps want to give a comment on that later on; you have commented in the past.

**Hon. Mr. Drea:** In fairness to OPSEU—and I went to their meeting; I guess I'm the only minister who has ever gone to a union meeting—I think some of their general comments in there were not directed specifically at this ministry; they were being directed elsewhere. But I'll be very glad to discuss that.

**Mr. Bradley:** Something else I want to discuss is the staffing at Vanier, and the letter you received from Mrs. Elizabeth Grove-White, the president of the board of directors, concerning reliance on casual or contract social workers and the need for more permanent staff. I'm sure, when we get into the individual institutions, we can discuss that.

Another thing that I would want some comment on is a speech you made to Ryerson this spring, saying "We ought to view the police, the courts, and correctional services as one system." You said you favoured remand courts being built into jails; that's something you have said in the past. Anyway, I really want to look at it in the context of certain remarks made by Mr. Elliott. This was the headline: "Juvenile Court to Many Children is a Chuckle."

I know we're not dealing directly with your people, but you say that we must see a total justice policy and you must co-operate with them. I'll get some comments from you a little later on when I'll go into some detail on that article.

I would touch on the food purchasing policy that we all agreed last year was good. I think you're justified in paying it, but I'd like to know how much more it costs for Canadian food. With the current dollar difference, your purchase Canadian policy may be cheaper in some instances, however.

**Hon. Mr. Drea:** I can get those figures for you. There is a general government rule that on overlays like that you cannot exceed by more than 10 per cent what it would be. We've kept well within that framework.

**Mr. Bradley:** Certainly members of the farming community in the province of Ontario are happy to see that policy.

**Hon. Mr. Drea:** We have made more changes. There is no foreign product, other than the little bit of coffee we still use, tea, sugar and pepper, that is allowed in. Canned pineapple or any fruit that's produced outside of Canada is not allowed in. What's there now is left over from what was bought



before. It's totally Canadian. You cannot have anything, including even hamburger, which is somewhat difficult to police as to place of origin. We have it double on the tender. I'll put you inside that it's totally Canadian now. We don't even go for the game any more where it says on the can, "Printed in Canada." We know the serial numbers on top. We know the canneries. There is a thrust among the smaller canneries, because Canadian Canners is not exactly Canadian, as you know, for us to give them preferential treatment. We can table all of that. We can get that to you in terms of things you might want to talk about.

**Mr. Chairman:** Mr. Stong, did you have a supplementary on that?

**Mr. Stong:** Just arising out of one thing that Mr. Bradley asked the minister before about with respect to the temporary absence plan, how long does it take to process that? I've run into difficulties with people who are sentenced to 14 days. The judge recommended TAP but the jail authorities would say, "We can't get it through that fast. You might as well do your time." How long does it take to process this?

**Hon. Mr. Drea:** One of the difficulties is that if the employer doesn't co-operate there is a problem. The basic rules for temporary absence, other than for educational purposes or going home—we're talking about work-related absence—is that you must have your job assured in writing and signed by your employer. Secondly, there has to be an agreement by the police in the area that they do not have serious objections to your returning back out. This is one departure we have from the federal government's program. We have found that it works well.

Quite often the difficulty with some of those 14 day-ones is that because most of them are impaired driving on multiples their work record has not been very good either. They haven't just been drinking and driving their cars. There's a pattern there. In some companies—most of them the larger ones, as it doesn't happen too often in the smaller ones—where they know the guy they are willing to try to straighten him out. The larger ones are abundantly aware of our rules and they know that their collective agreement says that for a non-medical absence of more than five days you are gone. It is a problem.

We are dependent upon that because if he has no job we can't send him out. We just can't break it down. What has been happening is that the courts are going to the intermittent field.

**Mr. Stong:** Where I've run into difficulty on this particular aspect is in the farming community where a person is self-employed. He's a farmer. Therefore, he's not going to get a letter from an employer. The judge at the time of harvest will say, "I will recommend temporary absence." This has happened in Simcoe county, at a Bradford court or at a Barrie court. There seems to be difficulty up in that area particularly. I don't know why that is so.

**Hon. Mr. Drea:** One of the problems is that the Barrie facility, as you know, is under tremendous pressure from the courts and the intermittents. We are working to provide a faster egress for some of those people who don't fit into the general category. Quite frankly, we would prefer to have them on temporary absence rather than the weekend because at least at night when they come back at 6:30 or 7, we have other plans for them.

**Mr. Stong:** But I think the prisoners would opt for that, too, if they knew they could get off on TAP.

**Hon. Mr. Drea:** We have other plans for them. They can have their supper, but then there is some place in town or some meeting that we want them to attend. It is useless to go on giving them 14, 30 or 60 days for that type of offence. The real penalty has already been imposed in terms of the almost permanent loss of licence et cetera, and we want to get at whatever the problem is that has that type of conduct. It is a very dangerous type of conduct, although it is a relatively minor type of offence.

**Mr. Stong:** In the event that—I will be very brief, Mr. Chairman; I have just one last question.

**Hon. Mr. Drea:** There is a move in Barrie to speed up in there.

**Mr. Stong:** Good. In the event that you require letters from the police—

**Hon. Mr. Drea:** No, not a letter.

**Mr. Stong:** Oh, you don't require a letter?

**Hon. Mr. Drea:** On impaired there is generally no such requirement, unless part of the impaired was that he has been extremely dangerous every other time he has been let out. But on a regular TA, for someone on a longer sentence, we will want to know whether the police have serious objections to him coming back into the community; if they do, then they start watching him and that is the beginning of the end.

**Mr. Stong:** That's good but, practically speaking, how long does it take to get that

authorization from the police or that okay from the police?

**Hon. Mr. Drea:** Very quickly.

**Mr. Stong:** Who seeks it? The jail custodian?

**Hon. Mr. Drea:** No, it goes through the temporary absence procedure in the jail. On a longer sentence, it goes through what we call a TA board, which is in the place; we have someone who is in a position of very intimate contact with police forces across the province, and that is done very quickly. That is for a longer-sentenced inmate.

By September—we are decentralizing it all over the province—the local superintendent will have full temporary absence authority. Generally, he is in complete contact with the police, because more and more of them are regional police forces, where it is a matter of very simple contact rather than in the old days, where you might have to go through three or four.

**Mr. Stong:** I am glad to see that that is coming into effect, because the centralization seemed to be the problem; that's a good move.

**Mr. Chairman:** Mr. Stong, since you have finished your questioning—unfortunately, with apologies to the minister and members of the committee—I have to leave for a meeting at 12 noon with the Speaker to arrange the schedule for this committee for the summer months—

**Hon. Mr. Drea:** Are you not taking me on your travels this year?

**Mr. Chairman:** I am not taking you on my travels; we are not travelling, Frank. It seems as though we only travel when you are with us. That is one of the problems; I am not on a travelling committee this year. But if Mr. Stong would be good enough to take the chair, I can try to negotiate for the committee.

**Mr. Bradley:** In conclusion, just to finish off the points that I wanted to cover—I promise you it will be one minute—the other areas I would like you to cover next week when I am back here, Mr. Minister, will include fire training for correctional officers; I know we have covered part of that, but I would like to know what training takes place. I would also like to know how you are planning for declining enrolment; since the education system is doing that, you will have to do that. As you mentioned last year during estimates, most of your people are young; so how are you planning for declining enrolment?

I also wonder whether you feel the proposed changes to the Mental Health Act will affect your ministry in any way at all and how you view the health and safety bill, Bill 70, fitting into your ministry? Mr. Ziembra no doubt will be pursuing, both with the bill and otherwise, the opening of the mail of MPPs—

**Hon. Mr. Drea:** In fairness, if I may interrupt you, I would have some difficulty in replying to that in here, because it is a matter before the House.

**Mr. Bradley:** Perhaps he will want to pursue that in the House. But these are just a few of the matters that I would like you to discuss in subsequent meetings of this committee. I would appreciate your comments on those very much. In winding up, once again I commend you for operating your ministry in what I feel is a very efficient and forward-looking manner.

**Mr. Acting Chairman Stong:** I take it that you are concluding your remarks, Mr. Bradley?

**Mr. Bradley:** I am concluding my remarks.  
[12:00]

**Hon. Mr. Drea:** Just before Mr. Ziembra proceeds, there's something that I would like to place on the record but which, unfortunately, I forgot to do earlier this morning. It will only take a minute. We have a number of people who will be leaving the parole board this year, and I think that they should be recognized.

First, we have with us today Mrs. Evelyn Markle. I know her biography by heart, but I want to get the rest of them. Mrs. Markle not only has been on the board for some time, but she has also served in an executive capacity to Mr. Grossman when he was the Minister of Reform Institutions, which was the department's old name, and she did stay on through Mr. Smith's administration as the Minister of Correctional Services. She will be retiring from the board this year. In addition to that, of course, she has had a very distinguished record with her church and in a great many community groups across this province for a great many years. I don't want to say exactly how many years, because I'm not going to tell her distinguished status in terms of age. I've got too many women at home, and these are the things I get caught up on. But I would like the committee to recognize her contribution.

Also, Mr. John Hill. Mr. Hill had a very distinguished military career; he also began service in the corrections field, not on the parole board, but as a correctional officer in

the old Don Jail when it was run by the municipality. Subsequent to that, he went away from the institution into the rehabilitation and parole service et cetera. He had a very distinguished career as a civil servant. Then, of course, he went on the parole board. Unfortunately, he is now ill. Quite frankly, it is the type of illness that does come from the pressure of work, and he will not be able to return to his capacity on the board.

As minister, I would hope that the committee would report in its proceedings the contributions of both these people to the parole board and to the entire correctional field for the many years. In both cases, quite frankly, their contributions go back a while. A lot of it was in pioneering things that are now accepted but which in those days certainly required initiative, dedication and concern for inmates. I wonder if we could have those recorded by the committee in its proceedings.

**Mr. Acting Chairman Stong:** I think the committee would be pleased, Mr. Minister, to record their distinguished careers and many years of service. I might say, with respect, I don't know Mrs. Markle personally that well, but I know her son better, having gone to university and law school with Bill; so I know the family through that connection. I think we'd be pleased to do that.

I think now we're ready for the opening statement of Mr. Ziembra.

**Mr. Ziembra:** Mr. Chairman: I'd like to thank the minister and the deputy minister for arranging to meet with myself and the Liberal critic before these estimates. I found it a very useful session. I think the highest compliment an opposition critic can pay any minister is to cut down on his estimates time, and both myself and Mr. Bradley agreed to cut your estimates, Mr. Minister, from 10 hours to five. I don't think we have to probe that much. You're doing a good job and it's regrettable that your predecessors weren't as forward thinking as you are.

The time has come for a moratorium on all prison construction. Jails cost a lot of money, we can't build them fast enough and jails don't work. It is for these reasons that the province, and to some degree the feds, are considering alternatives to imprisonment.

Of course, we are only 200 years behind the times. Why is this so? Because prisons are like a sacred cow. Prisons are where you stop crime. Prisons are where you rehabilitate the offender, protect society and deter future crimes. We have since learned that prisons don't work. In fact, prisons breed hostility, frustration and rage, while 70 per cent of

ex-prisoners wind up back in these same correctional institutions.

Who is in jail? Of 90,955 people in jail last year only 4,784 were charged with violent crimes, assault, robbery and rape. They were dangerous offenders that had to be locked up. They were only a little over five per cent of the prison population. Of the others, 23,066 were charged with crimes against property; 29,774 were charged with traffic offences and 22,721 for liquor offences. These inmates, 94 per cent of the prison population, could be released to a support structure in the community today. They represent no danger to society. Keeping these people out of jail would save us a lot of money as well as keeping them out of our schools for crime.

The Ombudsman reports that we are sending far too many people to jail. We hear so much about our soft bail laws but almost 60,000 people were denied bail and kept in jail prior to their trial. Canada is one of the harshest western countries when it comes to prison sentences. The sentences are far too long and most of the prisoners shouldn't be there. They are mostly poor people. Prisons are used as warehouses for native Canadians and other poor and powerless people.

Native Canadians have always been over-represented in our prison system. Alcohol, combined with alienation, makes them prime candidates for jailing. Community service orders are an alternative to prison but the courts have only two such facilities operated by native Indian organizations to which to refer offenders. Our jails are full of young people aged 16 to 24. This group makes up the largest portion of our prison population.

It is no coincidence that this same age group offers the highest percentage of unemployment. There is a direct relationship between jobs and jails. We imprison minor property offenders, drunks and speeders. People are sent to prison instead of hospital. In the Bill 85 debate, I read into the record two newspaper articles. The first described the plight of two Bradford teenagers serving 30 days. Their crime was throwing eggs at a policeman's house on Hallowe'en night. The second report was of a seven-day jail sentence handed to a mother of two whose husband was unemployed. Her crime was stealing two sausages.

What about the real criminals in our society? What about the monopolies, the price fixers and the false advertisers? What about the tax evaders? What about the employers whose negligence of safe working conditions results in workers' disabilities and deaths?



Finally, what of the industrial polluters, like Dow, who poison our air, soil and waterways? How many of these criminals ever wind up in jail?

The Ombudsman offers us two alternatives: Either we spend \$88 million on more new jails or we solve the problem in other ways by not jailing as many people. What I take this to mean is the involvement of the community. It does not mean simply relying on the correctional experts. It does not mean sloughing off the offender to a group home in the community with inadequate support services, as we presently see in the field of mental health.

What are community alternatives? Each community should determine its own needs and priorities, such as community service orders, restitution and reconciliation programs, day fine systems, community parole systems, alcohol and drug treatment centres and community control resource centres. We'll get into these in the estimates in the following week. It's regrettable to see the small amount of money spent in your ministry on the community program, which means parole in your case and community resource centres, as far as the overall budget is concerned.

The people who wind up in the criminal justice system come from the communities and almost all will end up back in their communities. Why should their stay in the prison system be in isolation from their community? Why must the community surrender its responsibility to correctional experts? We must not continue the out of sight, out of mind policies of the past. We must move away from the present dependency-creating prison system and foster a community system that builds self-help and social responsibility.

We save a few dollars by charging some 685 inmates \$5 a day towards their food. We save a few nickels and dimes by cutting out coffee and orange juice. Then we turn around and spend millions of dollars on new and unnecessary jails. The Etobicoke, Scarborough and London detention centres cost \$60,000 per cell for a total of \$36 million.

Prison construction is big business. The developers are happy, but almost from the first day these jails were overcrowded. In fact, prisoners have since been doubled up. We can't build these new jails fast enough.

I would like to see the minister declare a moratorium on any more prison construction and immediately redirect the savings to alternatives to imprisonment. We can save money on detention costs. We can save money on welfare costs. We can save money

on subsequent imprisonment because we believe there would be fewer repeaters.

The Commons subcommittee on penitentiaries agrees with this by stating: "Many witnesses testified that if Canada builds more prisons, those prisons will be immediately filled. Conversely, if alternatives for prisons can be found for the majority who are not dangerous, some of the existing buildings would be empty. Thus, before entering into a multi-million dollar construction program, less costly and more productive alternatives should be introduced."

In spite of this report, the feds are quietly moving on a \$460-million construction program to build 26 new institutions, increasing the cell capacity by 4,712 over the next five years. The federal government is turning its back on its own report. There is absolutely no need to build even one more new jail in this province and perhaps we could begin dismantling more of the present ones. The Don Jail closing could be a beginning.

**Mr. Acting Chairman Stong:** Do you have any comments to make?

**Hon. Mr. Drea:** On the general thrust, first of all, with the exception of one in the Toronto area which I regard as unusual, there is a very practical moratorium on new facility construction. Obviously, in the concept of the administration of justice in this province there are some older local jails in this province that we are going to have to replace.

For instance, the Barrie jail can no longer handle the remand capacity efficiently for the judicial district of Simcoe. That's basically because of the tremendous population surge there. We will have to expand the Whitby jail to take into account the enormous expansion of population in that area, which is reflected in the remand population. In addition, we will probably have to expand Sudbury, once again for remands, and Sault Ste. Marie, which once again is not a new facility-type of construction. But the population and urbanization of the areas up there are increasing. While the rate of incarceration remains the same, nonetheless because of those factors we will have to expand those institutions.

Whitby was a very modern facility when it was built, but it was built by Ontario county prior to the takeover by the province. With the population out there in those days, it was a very adequate facility. It always had a surplus. Now, with the tremendous surge of population along that shore, it just can't cope with its normal ratio of population.

But I agree with you. I have a graph here that you might be interested in looking at because it kind of puts this into perspective. The conditions of overcrowding and so forth are not with sentenced inmates. They are with remand prisoners. We have no control over the number of remand prisoners we receive because the courts have made the determination in probably three-quarters of the cases that these people are not to be allowed bail. They are sent back to us pending their trial and trials are taking longer to get to.

It depends upon the particular circumstances in the area. The bail reform law will not let someone without a fixed address out on his own recognizance, albeit many of these are very minor offences. The amount of bail that is asked is relatively low, \$100 or \$150, but that's a million dollars to somebody passing through town. This is putting a strain on things.

[12:15]

In terms of building anything for sentenced inmates no, we're not. As a matter of fact, we have closed them because there weren't enough clients. The general picture that is given is somewhat unfortunate. The Ombudsman or Judge Shapiro or other people who talk about overcrowding to the general public try to separate it into the remand versus the convicted or the sentenced, but that doesn't emerge.

I'll pass this graph over to you. In terms of adult capacity for sentenced inmates, our capacity now is approximately 2,900. That's with the closings. In terms of a clientele we have only about 2,600. We have a capacity there for sentenced people and that's going down. I'll show you the graph. There is our capacity, which reflects the closing of Glendale, and there is our sentenced count, which is almost following that capacity.

When we get into remands, our capacity is not keeping pace. The remand is in red. As you can see, it diminishes somewhat in the winter months for some reason. Courts don't meet in the summer. If you're remanded in custody in May, because of the nature of the court system you're going to stay in much longer than if you're remanded in January. Once again, if you're remanded around Christmas time, the human factor comes in. You'll notice the blue line is capacity. This is in remand centres. There's some progress toward getting that number of remand people down, either through some alternatives or speedier trial processes. This is the gap in there.

You're quite right. What are we building for? We may have to build a brand new one

but I'm somewhat confident that the courts, the ministry, the Attorney General and so forth will come to grips with the remand problem. It's not the fault of legal aid. It's not the fault of a lot of things. It's a combination of circumstances.

I don't want to be stuck, like the school system, with very expensive places in which we are dealing exclusively with remand prisoners. The policy now—and we're getting very close to it—is that we do not want sentenced people, the traditional type of minor offender with the 30- to 60-day sentence, in those facilities. We want them out, either on community service orders or under probation supervision, in the communities. These are really remand centres. What are we building for if the courts and the system are able to meet the problem and ensure faster trials and so forth?

In terms of the sentence institution in this province, two things are happening. Once again, this graph will show you. I have frequently talked about probation and the courts are going in that direction. There is probation right up there. In 1975 and 1976 it was under about 18,000. Today it's up to 25,000. That was at the end of the fiscal year. I noticed on my sheets this week that it's gone over the 25,000 mark. That's without fanfare or anything else.

The courts are going into the community. They're doing probation. If they're doing that, then obviously they're not relying on the institution any more. The institution is being reserved, as it should be, for the dangerous or the violent, although in certain circumstances there are still mandatory sentences for which you can't provide an alternative. That's going to take some deciding within the Criminal Code. That's a problem.

Some of the 19th century jails still exist because of the fact that they are integral to the court process. Suppose we removed and centralized them at another location, such as Brantford, for instance? That jail is old but it's still meeting its demands. Let's say hypothetically, five or six years down the road we said that that jail is no longer useful and we moved the remand inmates somewhere else. It would have a great impact upon the judiciary, the legal profession, the police and everybody else in Brantford so that you have to have some sort of local justice system.

In terms of sentenced inmates, yes, there's a moratorium. There's no question. Also, you will probably see—although it may be difficult because of geography—within the next five years another sentenced institution

closed, because there just won't be clients for it.

One of the difficulties now is they are pretty well all geographically necessary. You don't want to take somebody out of northeastern Ontario and ship them 500 or 600 miles away. That may be a problem. But if they're not closed they will certainly be scaled down and they may be used for other programs of this ministry or others, because they're still viable buildings.

Under the CSO program—the community service order—as I outlined yesterday, at any given time next year, at the rate it's going, there will be about 1,500 people on it. If you break that down into the average being a two-month sentence—and about half of them would have received that—you're talking about an institution of about 125 people. That's a correctional institution that will not have to be built because of that program. There's a saving there initially of about \$7 million, plus \$2 million and more to run it.

The other point you make is extremely valid—once you have the institution, it persists; it stays.

In terms of a moratorium, I think it would be recognized that certain older, small jails will have to be replaced. Fort Frances, for instance, holds only 12. It's in a terrible place. It's right across from the paper company. There are gas masks all over the place, in case of an explosion on the Minnesota side. We'd like to get out of there as soon as possible, but you can't. You have to rebuild, obviously, in the district of Rainy River or otherwise you'll be having court cases in Kenora or Sault Ste. Marie, which would be intolerable.

**Mr. Ziemba:** Thank you, Mr. Minister. We're about half way through our estimates. I think I'll ask you just one more question and I'll move the adjournment of this session. It will give us two and a half hours for the next.

**Hon. Mr. Drea:** Do what you want.

**Mr. Ziemba:** We've got five we agreed on.

**Hon. Mr. Drea:** Okay, whatever suits you.

**Mr. Ziemba:** It will equalize the thing.

I was interested in the women who are being held in Kingston penitentiary. You did promise me in the last debates that you would try to locate them in Vanier—

**Hon. Mr. Drea:** Yes.

**Mr. Ziemba:** —and you said you had to make Vanier more secure in order to accommodate the women. I understand there are still 125-odd women being held in that

miserable institution. I wonder what progress you've made in bringing our Ontario women back.

**Hon. Mr. Drea:** The federal government has put out the view—and I have reprimanded them in a very sharp letter to the Solicitor General—last week, I think it was—they have put that we are totally opposed to taking anybody out of the Kingston penitentiary for women, which I don't understand. The reason I get mad about it is that the Solicitor General of Canada and I sat across the table, about the distance between you and me, in front of both of our staffs some eight weeks ago and I told them that we would take every Ontario resident out of the Kingston penitentiary for women. I underlined "every"—violent, non-violent, what have you.

I want to put that very firmly on record because the women's groups—the Elizabeth Fry Society, a number of women who are associated with the national program as late as last night couldn't understand why they are being told that we will not do anything about the Kingston penitentiary for women. I haven't changed my mind at all. I want the place closed. There's no question about it. We will do everything within our power to facilitate that.

Last week we were represented at the national task force on the female offender. At this time, only two provinces, Ontario and British Columbia, are willing to take all their females. Quebec, which was willing when I talked last in these estimates, apparently no longer is; and that has nothing to do with the politics of the thing; it has to do with some internal arrangements within their own system.

The province of Nova Scotia has sent down a representative from their ministry—I guess it is the Attorney General—to look at Vanier, because they don't have facilities and would like their prisoners to come here.

I have told the federal Solicitor General that I have to give the Legislature of this province a statement by the closing of the Legislature because this is a very significant matter, and part of the problem—in fairness to the federal government—is that this exchange program was going on quite smoothly when Mr. Fox was the Solicitor General. When Mr. Fox departed abruptly this set back the program because of another factor: they were just in the process of appointing a deputy minister. A number of things came into play in February which were totally unexpected and you get into a different type of approach. I have been told by the federal



Solicitor General in response to an offer that we made saying that we were prepared to take all females if other provinces didn't want them, that this would require certain things by the federal government. They would probably have to provide us with an institution because, obviously, there would be an overflow. It is my understanding there are 132 females in Kingston penitentiary for women.

That was rejected by the federal government because the federal Solicitor General said he would be abrogating his constitutional responsibilities to enter into an agreement like that. Then we came back at that meeting that we would take all Ontario inmates, and once again he was somewhat dubious about that.

We have made the offer that we will either take all, or all of those who want to come. If we could take the total population of Kingston penitentiary for women, less what the province of British Columbia is willing to take, that would be wonderful. If we would take only our own, that is another number, and that would be practical. I visited there about a month ago and they are fully aware, quite frankly, that the Kingston penitentiary for women is going to remain open, and a lot of them do not want to come to Vanier. They want to stay there. They have some reasons for that. They like the arrangements in there. They have some reasons. They don't want to come.

**Mr. Ziemba:** Have they become institutionalized?

**Hon. Mr. Drea:** Yes, but they like the arrangements in the Kingston penitentiary for women. They are not necessarily enthralled about Vanier.

Part of the agreement we want to reach with the federal government is in accordance with our own policy which I touched on yesterday in the House in regard to female offenders. In terms of the community service order, in terms of the CRC field, it is our feeling in Ontario that we are less than two years away from being able to completely deinstitutionalize all but the violent female offender, provincially.

We also want the agreement with the federal government that it is not just an exchange from the Kingston penitentiary for women into the Vanier Centre for Women, but that we have the right to put them in CRCs, and to put them out gainfully for employment, while living in supervised residence on the outside.

The public perception is that any female who goes to Kingston penitentiary for women is obviously violent because she has gotten

more than a two-year sentence. That is not necessarily true. There are a number in there who are on mandatory drug sentences, not because they are drug users but because they were caught up in the import-export of drugs and they got the seven years. Very few of those people are, quite frankly, security risks. We would take them into Vanier and put them out into CRCs where they would be gainfully employed. It is a mandatory sentence; there is no question about it; but it doesn't take into account whether the person really should be incarcerated in a secure facility.

[12:30]

We want that agreement with the federal government. As I understand from my deputy, yesterday there were some calls from Ottawa, and they recognize the fact that I'm going to make a statement and table all of the correspondence on Friday the 23rd; I'm obligated to this Legislature to do so, because I don't know when we're going to meet again formally and this is a matter of some concern to everybody in the Legislature. They have promised to get back to us before the 23rd. So that, quite frankly, is where the situation stands now.

There has been a marked degree of difference, though, I must say, between the time that Mr. Fox was the Solicitor General—because Mr. Fox said he intended to close it—and Mr. Blais and his officials; because they are now claiming there are no alternatives. There may not be in other provinces but there certainly are for Ontario females here.

As I say, Nova Scotia has gone to the expense and the trouble of sending somebody down, because they didn't know Vanier. They've never really been there. They've looked around it and so forth and I would presume a couple of the other maritime provinces that don't have any facilities may be very willing to have their people exchange down here. Mind you, that's only a partial solution, because you're still into the transportation thing. Quite frankly, there should be some facility for them in Nova Scotia, New Brunswick, Newfoundland or PEI, because moving them from Kingston to Toronto may be beneficial in some aspects but you're not going to get to the root of the problem until you get them back as close as possible to their own surroundings.

**Mr. Ziemba:** Thank you, Mr. Minister. If the committee members do not have any further supplementaries, I wonder if I might adjourn this debate. Before I do though, I'd like to introduce to the committee my predecessor, Bill Temple, sitting out there in

the audience. He is the first socialist elected from High Park to this Legislature, and he defeated the then Premier George Drew to get that seat. So I'd like to welcome you, Bill.

**Hon. Mr. Drea:** Mr. Temple is a very venerable institution in this province; he has remarkable staying power. It's too bad that the two of you weren't here earlier. We had a film made a couple of years ago which everybody here has seen. It shows, quite frankly, what has been the matter with the system—the automatic release and so on and so forth. It's really too bad that you and Mr. Temple were not here to see it.

**Mr. Ziemba:** I had a full report from my assistant who was here to see that film, Mr. Minister. I regret not being here. Next time you're showing it, I'll be happy to attend.

**Hon. Mr. Drea:** In addition to the problems of the offender, it focused in on the concerns of yours and—

**Mr. Ziemba:** She was quite impressed with it.

**Hon. Mr. Drea:** —Mr. Temple's, because quite obviously many of the situations the particular individual found himself in, were accommodated by legislative and administrative practices in the liquor field, without

which some of those situations simply would not have been there.

Well, it isn't exactly the lifestyle portrayed on the hockey game, but the product most prominently featured by this gentleman. It's a very interesting alternative and quite frankly quite a bit more in keeping with reality than "the happy little time." As a matter of fact there's a fishing episode in there, and it doesn't show the fishing episode the way it's being merchandised—as being a very happy time.

**Mr. Acting Chairman Stong:** Well, in the absence of any supplementaries, I'm prepared to entertain a motion for adjournment. What's the pleasure of the committee? Have you set a date for the next meeting?

**Hon. Mr. Drea:** Next Wednesday.

**Mr. Acting Chairman Stong:** Next Wednesday at 10 a.m.

**Hon. Mr. Drea:** Do you have anything? Mr. Bradley brought up the solicitor business. Do you have everything you want?

Well, if you do have anything, would you just communicate with my office tomorrow or the next day?

**Mr. Acting Chairman Stong:** Thank you.

The committee adjourned at 12:35 p.m.

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CONTENTS

---

Wednesday, June 14, 1978

Ministry administration program .....	J-213
Opening statements: Mr. Drea, Mr. Bradley, Mr. Ziembra .....	J-213
Adjournment .....	J-233

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SPEAKERS IN THIS ISSUE

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Bradley, J. (St. Catharines L)  
Davison, M. N. (Hamilton Centre NDP)  
Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
Handleman, S. B. (Carleton PC)  
MacBeth, J. P.; Acting Chairman (Humber PC)  
Philip, E.; Chairman (Etobicoke NDP)  
Sterling, N. W. (Carleton-Grenville PC)  
Stong, A.; Acting Chairman (York Centre L)  
Sweeney, J. (Kitchener-Wilmot L)  
Ziembra, E. (High Park-Swansea NDP)





No. J-10

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Administration of Justice Committee

Estimates, Ministry of Correctional Services

**Second Session, 31st Parliament**

Thursday, June 22, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159).

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## LEGISLATURE OF ONTARIO

THURSDAY, JUNE 22, 1978

The committee met at 4 p.m.

### ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES (concluded)

**Mr. Vice-Chairman:** I was not here the other day; which vote are we at now?

**Mr. Lawlor:** I am not sure.

**Hon. Mr. Drea:** Mr. Chairman, in all fairness, this is somewhat of an unorthodox set of estimates and we are looking at things in terms of priorities. The member for St. Catharines (Mr. Bradley) tabled a number of detailed questions the other day to which we have very detailed answers, and we will get to those in a moment. The member for High Park-Swansea (Mr. Ziembra) had a couple of questions, and we will answer those in detail too. However, it has been brought to my attention by the member for High Park-Swansea that, today, being a Thursday, he does have a private bill coming up in the House which is of some import to him. I ask for his consideration, and I believe I have the understanding of the member for St. Catharines, that there are two aspects of our work which really were not asked about the other day and those involve females. Therefore, in terms of the number of females that we have and our affirmative action program, which has females doing what used to be traditionally male work, or guarding male prisoners, I wonder if at this time Ms. Margaret Beavan could elaborate to the committee and for Hansard on exactly what we are doing in terms of having females employed more generally than they were before. [4:00]

I would suggest to you, Mr. Chairman, it is very interesting, because we are the only jurisdiction in the Dominion of Canada that has females doing what I like to call unisex work, and doing it very well. It has proved of great benefit to the ministry, because our talent pool of people who want to go into corrections has been expanded enormously as a result of the ability to look at the whole population, not just the male population, as has been the tradition.

I realize that every time there is change, particularly in something as personal as in-

carceration, there are concerns put forward by the public, both pro and con; and I think the committee would be very well served at this time, if it meets with the approval of the member for St. Catharines, because it does with the member of your own party from High Park-Swansea, Mr. Chairman, that perhaps for a brief period of time we could put on the record exactly what we are doing in terms of affirmative action.

I think it is very significant at this time that we can enlist the talents of females that have been so long neglected in our society; they are doing work of great benefit to this ministry. I think that from time to time it should be the role of government to encourage people, especially young people, that there are careers available—

**Mr. Vice-Chairman:** Mr. Minister, you have convinced me. Everything is so well arranged that, if it is agreeable to the member for St. Catharines, Mr. Lawlor and I combined, if not myself, could speak on behalf of our colleague from High Park-Swansea. Shall we proceed, in this ecumenical setting, in the way that the minister would like us to proceed?

**Mr. Bradley:** An excellent suggestion, Mr. Chairman.

**Mr. Vice-Chairman:** Is that agreeable, Mr. Bradley?

**Mr. Bradley:** Yes.

**Hon. Mr. Drea:** Perhaps we could have Ms. Margaret Beavan come forward. One of my problems is, despite the fact that I have a female-oriented family and everything else, I also happen to have a very bad filling in the front of my mouth, and that "Ms." doesn't come out very well.

**Mr. Vice-Chairman:** Welcome to the committee, Ms. Beavan.

**Ms. Beavan:** Thank you, Mr. Chairman. I would like to say that when I took over the affirmative action program in 1975, at that time we only had 16 female correctional officers working with adult males. Since that time, the ministry has moved a long way; we now have 160 females working 22 of the adult male institutions. Those female correctional officers rotate through all shifts and they perform all duties except for working



in the admitting and discharge areas, because of the search procedures, which I understand are in the process of being changed and will enable women to work in that area too.

Apart from the 160 women working with the males, we have 140 working in the female wings of male institutions, and also at Vanier. We are now talking about a total of 300 women throughout the system, which is a greater achievement. The managers, the senior management and the minister should all be congratulated for the support they have given to the affirmative action program.

Initially, backtracking to 1975, in the adult division we only had 19.25 per cent female staff. It was decided that we would work toward a 0.5 per cent increase each year. I'm happy to say that the percentage increase in the three years is 2.44. We have exceeded the goals that the ministry set for itself. If we go on at this rate, hopefully we'll be able to say that we're almost at 40 per cent female and 60 per cent male. Now that we are getting them in at the entry level, women have started to move up into what we term the CO 3 level. We have them as shift supervisors. We have one female superintendent at Vanier, one deputy superintendent and one assistant superintendent.

If I may move over now briefly to the probation and parole area, at the entry level, which is the PO 1, the ratio is absolutely even. We have only four women at the PO 3 level, but until we get a number in at the one and two levels, we can't hope to see them in as seniors or as supervisors.

The managers in 1976 were asked to set their own targets, which they did. This was put on MBR and filed with Management Board. Their returns came in early in April. The commitment to introduce female correctional officers in 25 per cent of the adult male institutions was exceeded. In fact, the results showed that 47 per cent of our managers achieved that goal.

As a means of getting women into institutions, a number of the superintendents and institutional management started to encourage women volunteers to go into those institutions to pave the way for the time when there were vacancies. Now 85 per cent of our jails and detention centres have female volunteers. As for female student placements, which many of our institutions take during the year to enable students to get some idea of what corrections is about, 44 per cent of the institutions—in other words 21—now have

female placements and summer students. We have moved a fair way within the program. Obviously there's still a fair amount of work to be done, but I'm hopeful that with the type of support that we've had up to now that that will be achieved for next year's goals.

Just one last thing, we're looking at the turnover rates for women, because many people say that women are not stable in their work patterns and that they tend to leave more frequently than men; however, the turnover rate for women is exceedingly low.

**Mr. Renwick:** Who says that?

**Ms. Beavan:** Who says that? That is one of the myths.

**Mr. Renwick:** It sounds like a Tory might have said it.

**Ms. Beavan:** It has been said to me that women do not stay in a job for as long as men do. I have proved within the ministry that that is not true. I think that is all I have to say.

**Mr. Renwick:** Excuse me for the partisan interruption.

**Mr. MacBeth:** They stay a lot longer than the ministers anyway.

**Hon. Mr. Drea:** I think it should be brought to the attention of the members who are here today, in order to show this was possible in maximum security, Ms. Beavan walked the floors at night, including the mid-night shift. She walked it alone to show it could be done by a female. I think that is one of the great things that females are willing to do these days. They are willing to accept challenges. They are not willing to accept—

**Mr. Renwick:** Come on, you misinterpreted my remarks.

**Hon. Mr. Drea:** No, I didn't, I am adding to them.

**Mr. Renwick:** My remark was that there is no particular virtue in anybody adopting male habits of work. There is no virtue in sticking forever to some dreary job for the rest of one's life.

**Hon. Mr. Drea:** I agree with you.

**Mr. Renwick:** One of the great delights, at least in my view, is that women and some men have had enough initiative to say, "I am not going to do the dreary things for the rest of my life because there is some puritanical virtue in self-mutilation."

**Mr. Chairman:** Mr. Renwick, I am afraid if you start philosophizing, Mr. Lawlor may join in, and then Mr. Drea, and I am not sure that we will get through the estimates.

**Hon. Mr. Drea:** I am not sure the three of us should philosophize.

**Mr. Renwick,** in all fairness, what I brought up about Ms. Beavan was that when people told her the job couldn't be done in maximum security surroundings, she went out there by herself. She is not exactly the physical criteria that is going to make middle guard for the Argonauts this year or any other year. She showed it could be done.

We don't have height requirements, minimum height requirements or minimum weight. I think that is a great benefit in our system. While other aspects of the criminal justice system are still fighting about how big you have to be to be a policeman and so forth—and I know you feel very strongly about this—we have shown in our system—and bear in mind we don't use the gun, we don't use the blackjack; we have to be able to talk people down. I think this is very important for our society.

**Mr. Renwick:** I agree.

**Mr. Chairman:** Please carry on, Ms. Beavan.

**Ms. Beavan:** One other thing I would like to say is that the affirmative action program will eventually—and it has in one instance within this ministry—provide opportunities for males. If you are talking about jobs that women can do, then conversely we have to permit males to work as stenographers or to work at Vanier.

We did carry out one pilot project which proved very successful. The research built into that project from both Vanier Centre for Women, where the men went, and from Brampton Adult Training Centre, where the women were working, changed the whole atmosphere. People took more care with their appearance and the language changed and the whole atmosphere did.

So I think we are talking about normalizing atmospheres by utilizing staff of the opposite sex within the institutions.

**Mr. Lawlor:** Could you compare the applications being made in two subsequent years? What is the level of people seeking employment and what are the criteria of acceptance or non-acceptance?

**Ms. Beavan:** The number of applications that have been received has increased enormously. We have a link with Centennial College and 80 per cent of the students in the correctional worker program course are females.

Additionally, the number of applications that have been sent to regional personnel administrators has increased so they not only have a bank of applications for males but they have one for females too.

The criteria for a correctional—

**Mr. Lawlor:** I am sorry—before we get to the second question, I don't want it pinpointed exactly, but is it 200, is it 250, is it what? How many would there be in this last year? [4:15]

**Ms. Beavan:** I would think all of 200. It could well be more, but the applications are spread out around the province to all the RPAs. I would say they have had 200 applications easily.

**Mr. Lawlor:** What are the criteria?

**Ms. Beavan:** Minimum grade 12 education. As for the men, they are looking for maturity and some related experience. The criteria for the women are exactly the same as for the men.

**Mr. Lawlor:** Just one other question: You say with respect to the entrance—the searches and whatnot of the new inmate—you were seeking to make some kind of accommodation. You mentioned that in passing. What is it you are trying to do?

**Ms. Beavan:** To enable women, or males for that matter, to do the pat-down or the frisk searches. They don't do internal searches. That will never come about.

**Mr. Renwick:** I understand the valuable information you have given to us about the development of the affirmative action program. But from your own assessment, what do you think it means for the correctional system?

**Ms. Beavan:** I think the biggest benefit is the fact we are normalizing the atmosphere within the institutions. When an inmate is released, they go back onto the street and the world is made up of men and women. If they go into an institution and it is an all-male staff, that to me is not very normal. I think it benefits the inmate and that is what corrections is all about.

**Mr. Renwick:** I don't have any knowledge about it but I am glad you said that, because that is what went through my mind. If you dehumanize a limited society for people into a one-sex operation, it must be terribly difficult for both men and women within that framework, and when they come out to normalize their relationships again.

**Mr. Lawlor:** Look what happened to you at University of Toronto Schools.

**Mr. Renwick:** As a matter of fact, I was thinking about Oflag 79. Both probably contributed to all of my problems.

**Hon. Mr. Drea:** I think that is a very important point you brought up, Mr. Renwick. It has always seemed to me that if we

are going to institutionalize people because of a behaviour problem, and the behaviour problem is accentuated on the street, which is why they were there, we shouldn't try to put a fantasy world on the inside or in confinement.

We want to have it as much a part of the real world as possible. I think I am very fortunate as the minister in this province that before my time—I take no credit for this, this was done before my time—there were females like Ms. Beavan and the other females who come on to work for us who have gone into places that were traditionally male. They knew exactly what they were getting into, and they really have normalized or socialized or made what is inside into the real world. I think that is all to the good when people go outside. I will tell you, I am certainly going to encourage it.

**Mr. Renwick:** There is a very limited scope in the estimates to talk about personal experiences, but I was a prisoner in Germany during the war, in officers' camp. There were 2,500 men in the camp from the British forces all over the world. From the day we arrived at the base camp until six months later when we were released, we suffered the deprivation of food and of female society. There was absolutely no sexual talk or relationships within the camp. There was a debilitation of the basic life centre of people. When I am thinking about these terrible things, I read about solitary confinement in the federal penitentiaries, that that was fine, and that you'd lower the life of people to the point where normal relationships just disappear. I have often wondered what it would be like in a limited setting if you were deprived entirely of relationship, let alone companionship, with the opposite sex and, if, at the same time, you weren't necessarily subdued in your style of living.

I was very interested in your response to that comment because I don't really ever look at the affirmative action programs as simply some dry as dust numbers game. There must be some basic validity to it; because everybody does assume that, given equal opportunity and equal gradation systems, women are identical with men as to the jobs which they can perform within very broad limitations. It will be a long time before somebody plays in the National Hockey League, but that is an aberration anyway.

In the everyday world of people, everybody accepts equality. I think the affirmative action thing, if I may say so, is not just a numbers operation. I sensed that was what you were saying to us through the figures. What you were saying to us, however, is that your

basic thrust is that it is an essential and important ingredient in a correctional system which is interested, not in the irretrievably aberrant behaviour, if there is such, but in the normal disruptions of behaviour patterns, some of which bring down the sanctions of society while others escape the sanctions of society.

**Ms. Beavan:** That's what came out of the research material we have built into the program. That is what we hope to get fed back to us, and now we do have it. It has achieved that.

**Mr. Renwick:** Is there any of that material that would be available to us that we could look at about the importance of the normalization of relationships within the correctional setting?

**Ms. Beavan:** We have the research data from the pilot project.

**Hon. Mr. Drea:** I would be very glad to furnish you with that, Mr. Renwick.

**Mr. Renwick:** I think it would be interesting for us to see that.

**Mr. Chairman:** Any further questions? I apologize for being late, but I was in the House to introduce three bills that members of this committee, in a state of exhaustion, were very pleased to see pass third reading, Bills 7, 8 and 9. I hope we won't see quite the same bills for a while. I apologize and thank you for coming, Ms. Beavan.

The minister did have a number of questions from Mr. Bradley, and he also had some written questions from the NDP critic, Mr. Ziemba. I suggest that he give those answers now.

**Hon. Mr. Drea:** There have been some questions raised in the past, and more particularly within the last day or so, about the feeding of inmates and the type of thing we do, the nutrition and so forth. I have Mrs. Beal here who has worked very hard working out institutional meals so that one can't tell the day or the date by the menu. You can't tell whether it's Thursday or Friday by what you're getting. Certainly, Mrs. Beal has worked very hard in that regard.

The other interesting thing is that we have put certain onuses upon Mrs. Beal this year; that is, we have to buy Canadian. That means that in a great number of instances we are buying from very small, localized, Canadian or Ontario canneries. I will not buy from multinational corporations, regardless of what the name is. I won't buy Australian frozen meat, even though I can save 30 cents on the dollar. I won't buy it. We are buying Canadian beef. I know the prices have gone up—



**Mr. Eaton:** Yeah, but we have been giving it to you for three years.

**Hon. Mr. Drea:** Yes, I know they have given it to me for three years, and that's exactly why I'm not going to go out and buy Australian beef right now. The Ontario farmer has been damned good to me. He has supported every single one of our institutions. He has never complained.

By the same token, Mr. Chairman and members of the committee, when the Legislature starts to look at our accounts and sees that we are buying peas at a unit price well above what the housewife in the supermarket can buy them for, I make no apologies for it; I'm buying from the localized Canadian or Ontario canneries and I'm going to continue to do so.

In terms of the money we spend on food, I really think it should be brought home in terms of these estimates. I want to make it very plain that I have no objection to the housewife, at this particular time, being able to buy food at the lowest possible price. I don't expect her to go through all the routines we do in finding out where a product originates from, where it is canned, or where it is slaughtered. But, by the same token, I think it's about time the government stood up and did something for the people who have supported us a great deal. In the discussions I've had with Mrs. Beal and in the work she does, we are doing that. I think it might be very interesting—

**Mr. Renwick:** I really bow down to you. That's a brilliant statement. We have progressed from "Buy Canadian" to "Buy Ontario" to buy from the people who have supported us for so long, and that's a magnificent transition.

**Hon. Mr. Drea:** I also say "prices" at the end.

**Mr. Renwick:** I admire you. You've had their support, and we haven't had it, of course. We would also buy from them—probably more. But that was really magnificent, it really was.

**Mr. Handleman:** A bird in the hand—

**Hon. Mr. Drea:** Yes, but I do it.

**Mr. Renwick:** I was down in Quebec, and they weren't admiring your program of buying produce from the farmers in Quebec or from the farmers in Manitoba.

**Hon. Mr. Drea:** With all due respect, Mr. Renwick, I feel much more comfortable with Marc-André Bédard, the Attorney General, who runs the equivalent system in that province, than I do with the federal government.

**Mr. Renwick:** I'm sure.

**Hon. Mr. Drea:** And he is moving forward in a great many directions comparable with us.

**Mr. Renwick:** I agree with you; there's no problem there.

**Hon. Mr. Drea:** We've discussed this. I can go down to Quebec and talk to their cabinet ministers. They're very progressive people; they are not the same type of people who are in Ottawa, with all due respect to anybody.

**Mr. Renwick:** You don't have to pay any due respect to me on that issue. Perhaps my friend Mr. Bradley may wish it.

**Hon. Mr. Drea:** No, I don't think Mr. Bradley would want to fight with me. They're very progressive people in Quebec. I think this is one of the things that newspapers are throwing out of hand.

**Mr. Renwick:** That really wasn't what I was saying. I was asking you how much produce you were buying from the Quebec farmers.

**Hon. Mr. Drea:** I will buy produce from the Quebec farmers just as I put in the apple juice and got rid of the orange juice. It was not for the apple producers of Ontario; it was for the apple producers of the Annapolis Valley. They came to me and told me their problems. They can the great bulk of the apple juice, and that's why I put it in. But I will tell you this: The most discouraging thing that I have had in this ministry are the three occasions when I've gone down to talk to my federal counterparts. They are most discouraging.

**Mr. Renwick:** I agree with you. It's a dead loss.

**Mr. Eaton:** May I ask a question, Mr. Chairman?

**Mr. Chairman:** Yes, you may, Mr. Eaton. You're the one farmer among us.

[4:30]

**Mr. Eaton:** In regard to your purchasing policies for beef, suppose you are buying for the London detention centre, would the small abattoirs in the area have an opportunity to tender on that or how would the inquiries go out to them to find out if they can provide it?

**Hon. Mr. Drea:** That's why I would like Mrs. Beal to be up here in a couple of moments because we have decentralized the buying. I don't believe in buying from the big corporations. I try to make it as close to home as possible. Bear in mind that I have a cannery down in Burtch. We don't raise the food for that cannery. We buy it locally

from farmers around Brantford and we are not going to change that. Mrs. Beal, who has to do the menus over three months, knows the prices and the nutritional value. Perhaps she could tell you what we are trying to do. We have a great deal of support in this province from very ordinary people, from farmers around most of our institutions.

**Mrs. Campbell:** There is no such thing as an ordinary farmer.

**Mr. Eaton:** What are you trying to say?

**Mrs. Campbell:** I am standing up for you.

**Mr. Eaton:** I consider myself an ordinary farmer.

**Mr. Bradley:** Heaven forbid! We don't.

**Hon. Mr. Drea:** He's got tailor-made suits and I am wearing Tip Top. He's an ordinary farmer.

**Mr. Eaton:** Could I have an explanation on how tenders would be called?

**Hon. Mr. Drea:** One of the things that's coming forward today is that, seriously, if we did buy from the big middlemen, take for instance Canadian Cannery, which is a multinational corporation, I can save an awful lot of money. A year from now, I am going to have some provincial auditor saying that I am spending more because I won't buy at the least price. I will have it in there.

**Mr. Renwick:** Not if there is a clearly determined policy. If there is a clear government policy with respect to its buying purposes which is generally approved, it is not the role of the Provincial Auditor to start talking about what you could have done if you didn't adhere to the policy.

**Hon. Mr. Drea:** Mr. Renwick, in all fairness, the only ministry that subscribes to the all-Canadian policy is my own. I have some concerns that a year from now there may be some aspects raised by the Provincial Auditor.

**Mr. Renwick:** If your policy is clear, there can't possibly be.

**Hon. Mr. Drea:** Perhaps we could hear from Mrs. Beal. She works out all the menus.

**Mr. Chairman:** I believe Mr. Ziembra has a supplementary. Then maybe we can ask Mrs. Beal to come to the microphone at this time.

**Mr. Ziembra:** Can you tell this committee if the Canadian Food and Allied Workers employees in Guelph have been locked out in the same way that they have been here in Toronto?

**Hon. Mr. Drea:** The answer is no, Mr. Ziembra.

**Mr. Ziembra:** They can't be locked out of the jail, I guess.

**Hon. Mr. Drea:** I understand that we have a different arrangement in terms of termination with the Food and Allied Workers for the Guelph abattoir, which is about 50 per cent civilian and 50 per cent inmate labour. I do not run labour relations in this province in the way that Fleck Manufacturing does. The labour relations with this ministry is not like that one.

**Mr. Renwick:** I understand that broke down anyway.

**Hon. Mr. Drea:** That is pretty immaterial to me. I have prison industries and I have full-fledged contracts under the Labour Relations Board. We honour those contracts. We don't get into all the fooling around. The only time we become a little bit less than neutral is where we have a temporary absence prisoner who goes to work where there is a labour dispute. We don't even want to hear as to what the nature of the labour relations dispute is. He reports back forthwith. We will sort it out. We are not going to get involved.

We are very scrupulous about it. I think it is something that is going to advance into the future. We have labour agreements. This is a ministry of the crown. We are going to continue to do it, we are not going to get into any of the fooling around.

**Mr. Eaton:** My I direct some questions?

**Mr. Chairman:** I would invite the members to direct some questions to Mrs. Beal, since she has been sitting patiently at the microphone.

**Mr. Renwick:** I anticipated that Mrs. Beal had a statement that she wanted to make to us. Is that correct? It would be helpful to us.

**Mr. Chairman:** Fine. Would members of the committee like to hear Mrs. Beal? Please go ahead, Mrs. Beal.

**Mrs. Beal:** Food in our ministry assumes an exaggerated importance to the inmates, being locked up. Food is one of the things that breaks the monotony and is extremely important to them. Almost without exception they gain weight when they come into our institutions. But that doesn't necessarily mean they are all overweight when they leave. So many of them are underweight and undernourished when they come in that when they go out it just means they are at normal weight in many cases. Some are overweight, but in many cases they are just normal weight.

We prepare six-week rotating menus in the main office; they start over again when they have completed the six-week rotation. We used to change the menus just twice a year, summer and winter, to fit the seasonal foods. We are changing them more often now to try

to use surpluses that develop, or as prices fluctuate; sometimes something gets far too expensive, so that gets eliminated and something else is substituted for it.

We try to base our menus on Canada's Food Guide and in compliance with the recommendations of the Canadian Council on Nutrition. We have special diets as well for treatment of disease; but in the normal diet we are trying to give a good, nutritionally balanced diet.

Our present menus are in line with Buy Canadian policy. All the foods that appear on them, with the exception of tea, coffee, spices and sugar, are Canadian foods. We have a little difficulty getting Canadian foods. We have discovered that a lot of the companies are supplying imported foods because they are cheaper; so it has been quite difficult to search out companies that supply Canadian foods. All our purchase forms say, in big letters, "Canadian Products Only." The meat order forms say, "Cut from Canadian B Carcasses." The order forms for pork say, "Cut from Canadian Carcasses," and for poultry and fats they say, "Canadian only."

Sometimes we don't get any reply to the tenders, because the companies can't supply Canadian foods; so it has been a bit of a problem trying to get Canadian foods.

We are attempting to make use of Canadian surplus items. The Ontario Food Council calls us when there is something that is surplus, particularly fruits and vegetables. They let us know and we increase the number of times we use those items. Of course, we are trying to make use of Canadian surplus powdered milk. We have cut out the most expensive items, even though some of them are Canadian; when the price goes too high, we cut those out.

The reaction of the inmates to all this is that they've been a little vocal on some of these things. We have become so used to oranges, grapefruit, dates, raisins, rice and so on that we've even forgotten that these are imported items. We were so used to them; and the inmates also were used to them. They're saying we're not giving them a nutritionally balanced diet any longer, because no one can live without oranges, which of course is not true. Canadian foods can supply a perfectly balanced, nutritionally adequate diet. We may miss some of these items, but we're certainly not going to suffer nutritionally.

It's been very difficult trying to cut back, because I checked with Statistics Canada a few days ago to see at what rate the inflationary factor for food was travelling. This is Canadian, it's not Ontario. I believe it's not

quite as high in Ontario, but for Canada it's running at the rate of 16.9 per cent based on the January to May figures. I tried to get a breakdown for Ontario only, but I couldn't get it. I don't think it's quite that high for Ontario. Some of the other provinces are higher than ours, so it's very difficult for the housewife as well as institutions to try to save money when the inflation rate for food is running at that figure.

We are trying to use less meat, it being our most expensive food item. The older inmates particularly would like to have meat and potatoes three times a day every day and they'd be happy. For some reason or other they haven't been accustomed to eating eggs and cheese as much as meat. I suppose it's the hamburger/hot dog syndrome. I think that was about all I wanted to say in this explanation of what we're trying to do.

**Mr. Eaton:** I wanted to find out about the tendering procedure when you're tendering for food; the period of time, and would it be for a particular product. In other words, if you've got supplies for the next month, could someone tender just on the meat supply for that month, rather than a whole list of groceries across the board?

**Mrs. Beal:** The meat tenders go out separately from other items and they do go out once a month.

**Mr. Eaton:** Is it a case of having to fill that complete tendering? I'm thinking of a couple of small abattoirs. Could they just tender on beef and pork and not get into some of the processed meats you might use?

**Mrs. Beal:** Yes, they can.

**Mr. Eaton:** They could tender on individual items like that. Is there any effort made to contract them in a particular area; for instance, the London Detention Centre? Would you have a list of all the small abattoirs operating in the area and would they be made aware of a tender coming out?

**Mrs. Beal:** In some cases, yes, but usually it works the other way around. When a new institution opens—Elgin-Middlesex can hardly be called that because it was sort of a transfer and a lot of the suppliers just sort of transferred over. Usually the small companies telephone the institution and inquire how they can get on the tender list.

**Mr. Eaton:** What period of time, for instance, would a meat supply be tendered for? A week? Two weeks? A month?

**Mrs. Beal:** A month at a time.

**Mrs. Campbell:** I was late, so I perhaps misunderstood the minister, but when it comes to things like fruits and vegetables are



they tendered in the same way? I thought you went through the farmers in the area.

Mrs. Beal: For the fresh produce?

Mrs. Campbell: Yes.

Mrs. Beal: Not necessarily the farmers in the area, although if they wanted to. For the fresh things like lettuce, tomatoes, things that spoil, they get three prices over the telephone. The office manager or purchasing officer of that institution gets three prices over the telephone. It's a telephone tender system, but again anyone who wants to can go on the list. It's at least three prices. If there are 10 people who want to sell to the institution, then they all can have a chance to tender.

[4:45]

Mrs. Campbell: Have you had a flurry in the strawberry area lately as a result of stories we are reading in the press?

Mrs. Beal: I have had a couple of phone calls about strawberries. In one case they would go out and pick their own; the price was based on someone going out to pick their own. They didn't say whether they were willing to have our inmates go out and pick them. I thought maybe the superintendent of that institution could inquire about that.

Mrs. Campbell: I understand from what the minister said that when it comes to lamb and anything pertaining to that, you are not going to have any problem in the future. Is that right?

Hon. Mr. Drea: Well, we are not going to buy foreign.

Mrs. Campbell: I thought you were going to raise your own.

Hon. Mr. Drea: We are doing very well with sheep and lamb, Mrs. Campbell, after your question last year, but in the meantime, I can tell you, until we have reached the full flock, we are not going to buy anything foreign.

Mr. Renwick: Mrs. Beal, what sort of staff do you have for this purchasing, dietary, nutrition aspect of the ministry?

Mrs. Beal: This is in a different department from mine, but we work closely together.

Mr. Renwick: Your principal responsibility is the purchasing operation.

Mrs. Beal: No, but I work closely with them, almost every day. There is that contact.

Mr. Renwick: Your exact area is the nutritional aspect of the operation. How many do you have working with you?

Mrs. Beal: In the main office—one secretary.

Mrs. Campbell: Never underestimate the power of a woman.

Hon. Mr. Drea: A good Saskatchewan farm girl.

Mrs. Campbell: With a man it would be a hundred.

Mr. Chairman: That is an interesting quotation. I will have to remember that, Mrs. Campbell.

Mr. Renwick: My friend from St. George is not, surely, at this point in time, saying never underestimate the power of a woman in the kitchen.

Mrs. Campbell: That isn't what she is doing.

Mr. Renwick: You probably read in the paper—and I was very interested, of course, because a friend of mine was involved—about that flare-up in the veterans' wing at Sunnybrook Hospital. As you indicated in your opening remarks, the importance in the life syndrome for people in a restricted area, whatever the restricted area, is the arrival of the food; it is an important incident in the time of the day. I will put it objectively. You haven't been engaged in any disruption of the traditional breakfast eating patterns of the members of the correctional services institutional society? The problem I am talking about is where Mr. Valentine was very much concerned because, regardless of the dietary or nutritional content of the breakfast, it was not going to be bacon and eggs and oatmeal and all of the traditional Ontario breakfast. They were going to substitute for it an equally nutritional one, but a much more, shall we say, modern or continental style breakfast.

You are not engaged in any of that, I hope. That is an objective statement.

Mr. Eaton: Didn't you read the paper the other day?

Mrs. Beal: Breakfast is a controversial subject.

Mr. Renwick: It is controversial in institutions?

Mrs. Beal: Yes.

Mr. Renwick: For that sort of reason—the feeling about the traditional breakfast?

Mrs. Beal: I don't know why it is so much more important than other meals. I think they look on it as the most important meal of the day. They think they should have a big breakfast whether they are working or not, which seems very unusual to the rest of us who don't eat that big a breakfast.

Mr. Renwick: Whether we are working or not.

Mrs. Campbell: It was drummed into us in childhood that it was the most important meal

of the day; so now nobody ever eats it anymore.

**Mr. Renwick:** I am partly facetious, of course, because our dietary habits lend themselves to a certain amount of facetiousness. But it is true; I think a lot of people will eat the identical breakfast every day of the year but would be very upset if they were required to eat the identical luncheon and dinner.

**Mrs. Beal:** Yes, that's true.

**Mr. Renwick:** When the minister said he would introduce sufficient variety that you couldn't tell whether it was Monday or Thursday without a calendar, I was a little bit worried about whether or not that had gone through to breakfast, because if you disrupt breakfast you must disrupt the whole of the internal operation of every one of the correctional institutions just as much as if you served the same meal at dinnertime, which would probably cause the same problem.

What is the problem? Have you in fact been experimenting with breakfast?

**Mrs. Beal:** Yes, we have done.

**Mr. Renwick:** And it has been causing some problems where the experimentation at luncheon and dinner would not cause the same problem?

**Mrs. Beal:** Any experimentation in our institutions is a bit of a problem. We have to introduce change gradually. Sudden change seems to create all sorts of murmuring.

**Mr. Renwick:** Tensions. Just like the members' dining room.

**Hon. Mr. Drea:** Mr. Renwick, if you were fed as well downstairs as the people under my control are every day, you would love it.

**Mr. Chairman:** We may well be, of course, now that it has been nationalized.

**Mr. Renwick:** The serious part of the discussion is your opening statement, that whatever institution you're in, whether it is a benign one or a detention one, mealtime becomes a very important point in the whole of the organization in most people's lives. I don't quite understand—perhaps the minister could enlighten me—as to whether or not you think the staff, regardless of their individual competence, which is obviously high, are paying enough attention in relation to the devotion of enough resources. I'm not talking about the dollar content of your purchasing—nobody can particularly fault you about that—but do you have the same appreciation of the problem that Mrs. Beal does?

**Hon. Mr. Drea:** Yes, I do, Mr. Renwick. One of the difficulties, no matter how you try

to divide it up, is that there's an institutional menu for people who are institutionalized; you're totally captive to the institutional menu.

**Mr. Renwick:** Yes, it doesn't matter whether it's a hospital, a summer resort, a boys' school, a camp or any of the places; and it doesn't matter how much you pay.

**Hon. Mr. Drea:** That's right; it's an institutional menu. As a matter of fact, I guess Frank Drea is institutionalized, because I can tell you what's going to be on Sunday, Monday and Tuesday, because that's the way she cooks it.

By the same token, it has been my feeling that when you are institutionalized, and you don't have a particular voice over your own circumstances that food gets to assume an astronomical proportion in terms of your daily existence. That's why we have tried—and I really think we're succeeding very well. You know, the comments I get from people on the outside are that we are feeding people far too well. My reply to those is that we are totally institutionalized and, if you would take the institutionalization factor into it, we're feeding or providing for them quite normally.

The one thing that comes close to me is that at this particular hour of need in this country, without getting into any of the political ramifications, or how we got here, where we are or anything else, the government has to show the lead. We are doing that in terms of institutions. If I were doing it or we were doing it through our staff and saying that it is the hour of need for Canada and so on and so forth and you have to tighten your belt, then that is one thing. We have not done that. We have gone out through our superintendents and through the correctional officers and explained it, as I did when I cut off coffee and the juices and so on. I come back to this thing about the real world; we have made it into the real world. If you have a wife or a family or somebody else out there, you know what the prices are. We are going to do it the same way. It has worked very well, Mr. Renwick.

I would be less than candid if I was to suggest that we could do these things just on a buy-Canadian policy. I wouldn't do that. I think you have to go down and explain to people and make it relative to people. We have to show it to the people we have. They may be institutionalized, but the bulk of our people are remand prisoners. They are innocent, as you know through your own profession. We have to show them

that these are very logical and very practical steps.

**Mr. Renwick:** If I may interrupt, I really don't believe that is in argument or discussion. I think we would all agree with that. I was thinking more in relation to the individual person in your institutions and his relation to the time when food arrives, for example. What time do you serve the meals?

**Hon. Mr. Drea:** We serve breakfast very early in the morning.

**Mr. Renwick:** What time is very early in the morning?

**Hon. Mr. Drea:** About 7 o'clock.

**Mr. Renwick:** What time do you serve lunch?

**Mr. Thompson:** In bigger institutions, it might run from 11:30 through to 1:30.

**Mr. Renwick:** And suppertime?

**Mr. Thompson:** Anywhere from 5 until 6 o'clock.

**Mr. Renwick:** English tea. I think that pattern is a destructive pattern. There are very few people who eat at those hours in society. I don't mean that they have to have a 9 o'clock dinner, such as members of the assembly have, but I do think that one part of institutionalization is that whole ritual that says, "You are here. You are under our control. You had better be up and about pretty goddam early even though you haven't much to do for the rest of the day."

**Hon. Mr. Drea:** Whoa, whoa, this is what I was going to bring up. As of July 1 and as of right now for a great number of inmates, earned remission comes in. You are out there on a work gang. You have to eat breakfast at that particular time of the morning because you are out and about and working.

**Mr. Renwick:** Forgetting about July 1 and earned remissions and what time the trucks arrive so that you can get out on a TAP to earn a job, what—

**Hon. Mr. Drea:** You are working. It is the same with you and me. Lord, 7 o'clock to me is very early morning.

**Mr. Renwick:** It is late for me at this time in the morning.

**Hon. Mr. Drea:** Mr. Renwick, you live downtown and you don't have to come in those 17 miles from Scarborough. I am up and about. I don't ask everybody to have that particular type of lifestyle but that is because I am working. I think that working is an important part. If you are working and

have to get up in the morning, you eat at that particular time. When you eat your lunch, lunch is not dictated by what they do on Bay Street or anything else with the long cocktail hour. It is determined by your work. Your supper is determined by your work.

**Mr. Renwick:** Surely the work determines the hour that you will serve the food.

**Hon. Mr. Drea:** That is right.

**Mr. Renwick:** Yet food is the determining factor and not the work.

**Hon. Mr. Drea:** No, you are absolutely right except that for the last 10 years we have based prison menus on the fact that people used to work. We served them at the times they would normally be eating because that was the interruption in the work period. The difficulty has been that for the last 10 years we have not worked. It did not matter whether we served lunch at 3 o'clock in the afternoon and so forth.

**Mr. Renwick:** Last week you had all of the accolades about the positive parts of your program. Let us spend a little time on the negative parts of it and they are not all subsumed in the positive parts of it.

[5:00]

Are you looking at the fundamental problem of the lack of normalization for behavioural problems that brought down the sanctions of society on people in light of to what extent does your ritual disrupt the normalization of their lives?

**Hon. Mr. Drea:** You are going to get up, Mr. Renwick, at exactly the same time as most of the people in this province get up to go to work. You are, therefore, going to eat at that particular period of time. If you choose not to eat, that is your own prerogative.

**Mr. Renwick:** Of course.

**Hon. Mr. Drea:** You are going to eat lunch at the time that most of the working people in this province do, dictated by their job as to when they can have lunch. You are going to eat supper on exactly the same time as you have a normal work-regimented routine.

What I am saying to you is that in the past 10 years, we have had that in there, except we have had no work. I feel this has posed a very great deal of difficulty to the inmate. The inmate was living in a fantasy world; somehow two o'clock, or one o'clock, or noon came along, and that was lunch time, but it had nothing to do with his vocation. You and I eat when we do on the basis of when our job allows us to do it. We



eat differently, for instance, on Saturday and Sunday when we are not working. We eat at different hours.

**Mr. Renwick:** What is the differential in the various institutions in the times you eat. Your adviser was saying that in some places it was 12 o'clock or 1:30 p.m. Do you have to be there at a certain time, or can you come in an hour later?

**Hon. Mr. Drea:** Mr. Renwick, in our institutions, I am able to tell you, you are there.

**Mr. Renwick:** That is what I was saying. I thought that was so.

**Hon. Mr. Drea:** Let's take a look at the smaller jail which has a capacity of 30 or so—let's say Parry Sound or another of the smaller places. It is very easy for them to serve at one time. In the larger institutions, where you are dealing with a bulk of people, once again they have tried to spread it over. You don't want to have a kitchen staff too pressed or everybody tied into doing a half hour.

**Mr. Renwick:** So it is the staff convenience?

**Hon. Mr. Drea:** Yes. And then we get into weekends where we have intermittent prisoners. For instance at Mimico on the weekends, because we get so many people there on Friday nights, Saturdays and Sundays who aren't straight-time prisoners—it takes us much longer to serve them, for very obvious reasons. It's because you can't build to that type of capacity. But I believe food is as much in the world that you and I have as is work or as is anything else, and I want it to be completely normalized. I want it to be that when you have a half an hour or an hour off from a job, because we want to teach work habits, that's when you eat. When you go home, that's when you eat. If you have to get up to a job at six o'clock in the morning, you eat at 5:30. If you have to get up for a job that's going to start at 8:00, you eat at 7:30. I don't like the regimen any more than you do, but I want to treat it as the real world.

**Mrs. Campbell:** What do you do when the night watchmen eat?

**Hon. Mr. Drea:** Then I guess you eat off schedule, the same as I used to when I was a night reporter. I can tell you what time I used to eat breakfast—3 o'clock in the morning. That's what you do if you're working those kind of hours. I think it's really tuned into your work, and to your particular habits, rather than on a regimen.

**Mr. Renwick:** Perhaps, Mr. Chairman, I could raise a point of order. I don't know whether it would be permitted at this point,

but before these estimates are over would it be possible for, say, three of us to have a discussion? Perhaps Mr. Bradley, if he was interested in such a discussion, and perhaps myself on behalf of some of the things we have been talking about a little within our caucus; could the minister exchange with us, on something bordering on a philosophical discussion? We could take 10 minutes each, at say 5:30 about—

**Hon. Mr. Drea:** Oh I'd be delighted, Mr. Renwick. As a matter of fact—

**Mr. Renwick:** I don't want to interrupt whatever the committee or the chairman had their mind on—

**Hon. Mr. Drea:** No, I'd be delighted, Mr. Renwick, as I'm sure my staff would be. Because of the constraints put upon the time I'm not altogether happy; I would like 40 or 50 hours. I think we could engage in a very meaningful discussion upon corrections which I consider to be very important, but if there are any—

**Mr. Acting Chairman:** You will agree that we could come back to that—

**Hon. Mr. Drea:** No, but if there are any questions, or anything the members—

**Mr. Renwick:** It wasn't in any sense argumentative: it was—

**Hon. Mr. Drea:** No, I know that—

**Mr. Renwick:** —it was just an exchange of views.

**Hon. Mr. Drea:** I don't want to confine the committee to getting in their questions before 6 o'clock today. Certainly if there are questions, or there are concerns or anything else, if any of the members would forward them, we'd be most pleased to answer them in the greatest possible detail over the summer months. We'd be very glad to provide you with position papers or what have you.

**Mr. Acting Chairman:** I think he wanted the little philosophical discussion a little later on—

**Mr. Renwick:** Yes, five or six minutes—

**Hon. Mr. Drea:** Oh sure.

**Mr. Acting Chairman:** We'll come back to that then. Mr. Miller was next on the list as far as questions was concerned.

**Mr. G. I. Miller:** Thank you, Mr. Chairman. Mr. Minister, I realize you've covered quite a big area, but I was concerned about the question of regional jails and providing a local facility, perhaps to fit the court. Is any consideration being given to providing local jails in connection with the courts?

**Hon. Mr. Drea:** Yes, Mr. Miller, this concerns me a very great deal. One of the fail-

ures of this ministry in the past, although it was done with the greatest of intentions, was that we centralized the jails. We started off in the 1970s with the Quinte detention centre in Napanee, which took the place of the Picton county jail, the Napanee jail—mind you, it was close by—the Frontenac jail in Kingston and the Hastings jail. We have found, ever since, that the further the jail or detention centre is from the local court operations, the worse is the functioning of the criminal justice system.

I can understand your concerns in your particular area. In the past we have closed the Cayuga jail and we have now closed the Simcoe city jail. You have the region of Haldimand-Norfolk now, where remand prisoners are taken up to the Hamilton detention centre. There is no question to me that this is a burden upon the police. Until the time you are a sentenced inmate or convicted, the police have to bear the cost of transporting them. By the same token, it has also put tremendous burdens upon the local court, the defence bar, the crown and other people concerned with the administration of justice.

In this ministry we are looking at the ability to construct small local jails. One of the problems has been that with high construction costs and a number of other items, replacing the small local jail—fewer than 70 inmates—is absolutely prohibitive. My deputy and I have sat down with construction companies in the past seven or eight months and talked about portable jails; we'll be going into Barrie with portable jails.

We are also talking to Canadian suppliers of precast materials, which would enable us to put into local situations jails to accommodate the 25 to 50, the 75 prisoners, without the prohibitive cost of building a building. But I recognize it's a problem and I'm very concerned about it.

I'm concerned about it on two grounds: First is that the system of justice doesn't work very well unless the system of justice is accommodated. By the same token, I understand what the law profession, what the courts, what the police are having to go through in terms of resources, because technologically we are not in the position to put back the local jail to where it was some time ago.

**Mr. G. I. Miller:** Is there any possibility of reconstructing the Cayuga jail facilities? The building is still there and you have work programs and—

**Hon. Mr. Drea:** Mr. Miller, I am—

**Mr. G. I. Miller:** Would that not be a work program that would—

**Hon. Mr. Drea:** Mr. Miller, I am working on a program now to get Canadian precast companies interested; and bear in mind, when I had to do the portable jails at Barrie, which was an all-steel arrangement, the particular company told us they would not build in Canada. Well, they'll build in Canada now because they want the contract, and it's taken us five or six months to get that one arranged.

We are working, right now, with precast construction companies, in this province, that build portable jails in the United States but won't build them here, not the portable that I want. I think it is essential that in this province we have small unit jails being built in places like that.

One thing of great concern to me is the combination of Cayuga and the city of Simcoe. That concerns me a very great deal. I know how far the lawyers have to travel; I know how far the judges have to travel; I know how far the regional police force has to travel; I know how far the OPP has to travel. And I will tell you, Mr. Miller, that I think it's only about a year until we can lay down definite proposals to replace what has been cancelled in the past.

**Mr. G. I. Miller:** Okay, I appreciate that. I think it's a progressive step. What about the work programs? Have you ever considered providing work forces for shoreline protection or stream cleanups?

**Hon. Mr. Drea:** Yes.

**Mr. G. I. Miller:** If so, how can you apply for that?

**Hon. Mr. Drea:** Well, first of all, your colleague, Mr. Bradley, hit me over the head about that, three weeks ago? I guess the old Welland canal is a shoreline project; we're doing that with intermittents; we're doing that with the weekend prisoners, cleaning it up.

In Mississauga, which is shoreline protection, as you know, the municipality has gone to great lengths; they are using inmates for the cleanup of the Mississauga shore. I only wish we could do it in a great many other places, and I really think we can.

**Mr. G. I. Miller:** Is that the Credit River where they are having the problem?

**Hon. Mr. Drea:** Yes.

**Mr. Acting Chairman:** Who approached you on that? The municipalities approached you?

**Hon. Mr. Drea:** Yes, the municipality approached me.

I don't want to inhibit you for a moment but we have decentralized our jail operations

in terms of work. I don't think it should be coming from the minister's office that we should have guidelines across the province because I don't think they work. What's good for Toronto isn't necessarily good for Nipigon, or vice versa. What we have told municipalities—and I'm constantly urging them to do this—is they come to see our local institution. The institution knows there's manpower, they know what we can do, they know your local problems; and, you know, if we can get enough municipalities or enough conservation authorities or enough of people who are interested in this type of work, we can supply them with inmates.

Now, I think it's very desirable. I don't think that Boy Scouts, for instance, should be limited to cleaning up the shoreline once every two years. I'd like the Boy Scouts to go on and do something else. We can do the basics, let them go on and do the rest of it.

**Mr. Acting Chairman:** Any further questions?

**Mr. G. I. Miller:** With regard to the food in the prisons, you'll recall we did have an investigation into one case in Simcoe?

**Hon. Mr. Drea:** Yes.

**Mr. G. I. Miller:** What was the outcome?

**Hon. Mr. Drea:** It's still underway, Mr. Miller. I am waiting for the report of the Ontario Provincial Police in that matter. Notwithstanding that—and I know of their pressures, and that they're doing other things—I have nonetheless instituted, so that there will be no repetition of these allegations, that we have an all-Canadian policy. There is no way, shape or form that any foreign beef, right down to hamburger, or any other canned goods can come in.

But just to answer you in terms of those particular allegations, the OPP are still investigating and they haven't given us back the final report. But I will tell you when they give me back the final report, if it's the way you said it was, God help those who were involved.

[5:15]

**Mr. Renwick:** My colleague just said that perhaps that report would be complete if you hadn't sent so many of the OPP to the Fleck strike.

**Mr. Acting Chairman:** Perhaps we would not have had to if the strike—

**Hon. Mr. Drea:** Mr. Renwick, I'll tell you, I am the only Minister of Correctional Services in this country, the only minister of jails, who has a bona fide labour contract. I don't have troubles with the UAW. I will

tell you something else, we have a new industry coming in to—

**Mr. Renwick:** Perhaps you should save this for the budget address.

**Hon. Mr. Drea:** No, I'll tell you, I have a new industry coming into Maplehurst which is an institution of mine; it happens to be within the parameters of the UAW. I will tell you that the guy who will walk in there right after me is Dennis McDermott and there will be no trouble, there will be a contract.

**Mr. Acting Chairman:** Are you satisfied? Do you have anything further, Mr. Miller?

**Mr. G. I. Miller:** Yes, under your new food program you will still be considering staples: we have a lot of Canadian staples, for example apple juice and tomato juice and that type of thing, which will keep everyone from starving and I think should be utilized. Prisoners are there for a reason. They don't really have to be there; it is because of their own making in many cases. I don't think they should be going first class but I think they should be getting adequate food, and we have a lot of that food in Ontario and in Canada.

**Hon. Mr. Drea:** Could I just say something about our cannery down at Burtch, which is Brantford, since there is some misunderstanding about it? We do not grow the food we use in the cannery; we buy from local farmers. We can tomatoes, apples, we can about 15 or 16 commodities. We even do juice. We buy commercially from the local farmer, we can and we use it in our institutions. We are not going to get into the position of undercutting the local farmer by growing food. Whatever we grow, we use in season for ourselves, and whatever we are to can or anything else we will buy commercially from the local farmer.

**Mr. G. I. Miller:** Interesting, thank you. Getting back maybe to the Glendale closing situation. Has the staff been all taken care of? Have they been relocated fully?

**Hon. Mr. Drea:** I think so, Mr. Miller, but I have Mr. Daniels here who arranged all of that. You could talk to Mr. Daniels for a moment about it. Would you like Mr. Daniels to—

**Mr. G. I. Miller:** Okay.

**Mrs. Campbell:** No way.

**Mr. G. I. Miller:** Who else is on the questioning? I think we have until 6 o'clock.

**Hon. Mr. Drea:** Mr. Daniels will be very succinct. He has worked very hard on that situation, Mr. Miller.



**Mr. Daniels:** Mr. Miller, in the case of the staff at Glendale, I think we have been very successful in finding alternative work for all but five. There were 75 civil servants involved and 70 of them are working in the Ontario government; 13 remained at Glendale, now called Sprucedale, and another 13 went up to Burtch; 11 went to Hamilton; two or three went to Brantford, to the jail, so in a sense they were within commuting distance and striking distance and they haven't chosen yet to relocate from their home areas of Simcoe or Port Dover. The five staff who unfortunately were unplanned were offered alternative work. I think there were close to 200 job offers available for them to go to. These people had enough seniority in some cases to stay in places like Burtch or Hamilton; in fact, three of them went to work, two to Hamilton, one to Burtch, and then quit from there. Rather than deny them their severance pay we considered them being laid off from Simcoe, but technically they have resigned from their job at a new work site. The other two chose really not to leave their home area, despite many chances of alternative work and actually viewing alternative premises; they went as far away as Thunder Bay and the Rideau-Burritts Rapids area to look at job sites.

**Mr. G. I. Miller:** Was the part-time help also given consideration?

**Mr. Daniels:** A number of the part-time people are working or have applied for work as full-time staff in places like Hamilton, where we were hiring. With the teachers, too, it has been quite successful. Yesterday, I think one of the teachers took a job as a probation officer. The principal, Bob Cole, has taken a job as a senior assistant superintendent in Brampton. A number of them are working in other facilities as teachers with either retarded or correctional people. I think it was a very successful closure, and anybody who really wanted to work would have no trouble in finding alternative work with us or with another ministry.

**Mr. G. I. Miller:** And were you in charge of the employees at the jail at the time?

**Mr. Daniels:** The jail staff were offered 200 or 300 jobs that were available. I think all but two or three of them went to work in other places. Most of them went up to Brantford to work in either Burtch or the Brantford jail. The two or three who were laid off were given lots of other alternatives but chose to stay in the home area.

**Mr. G. I. Miller:** Thank you. Mr. Minister, have you calculated the saving that is going to be derived from the closing of that institution?

**Hon. Mr. Drea:** There's a net saving of \$1.8 million a year.

**Mrs. Campbell:** Could that be broken down as to how you arrive at that net saving? Obviously it isn't in staff.

**Hon. Mr. Drea:** The bulk of it would be in staff, Mrs. Campbell. About 78 cents of our dollar is for staff, and bear in mind that we don't calculate capital costs in the administration of an institution. Bear in mind also that one of the difficulties in this is that the Ministry of Community and Social Services has taken over the institution and is running it; so there are certain things, in terms of loss or abandonment or something like that, that simply aren't there.

The net saving comprises the entire Glendale budget of \$2,367,000, less \$167,000 for the direct cost of feeding and clothing Glendale inmates in other institutions. So it is broken down; the bulk of it is staff.

**Mrs. Campbell:** Even though you continued to send staff—

**Hon. Mr. Drea:** Even though we are out of it. ComSoc has taken over and their budget would show what the particular staff is. But overriding that is that, even if we had kept Glendale open, I don't have enough clientele to put into Glendale.

**Mrs. Campbell:** Perhaps you should do a PR job!

**Hon. Mr. Drea:** Oddly enough, no matter how many reports you read about overcrowding, they're remand prisoners; Glendale was for sentenced inmates. As I said the last time we met, probably within the next four or five years I'm going to have to close another sentenced inmate institution.

**Mr. G. I. Miller:** How many inmates are there? I thought there was 4,800 in that bracket.

**Hon. Mr. Drea:** What, at Glendale?

**Mr. G. I. Miller:** No, in that bracket.

**Hon. Mr. Drea:** Oh no. Those numbers are—

**Mr. G. I. Miller:** What are the figures that would fit into that bracket?

**Hon. Mr. Drea:** Oh no, those numbers are going down very rapidly. What was the capacity of Glendale? About 100, I am advised.

**Mr. G. I. Miller:** But in that age bracket that was being dealt with at Glendale—

**Hon. Mr. Drea:** No, it was a very small age group, Mr. Miller.

**Mr. G. I. Miller:** In the 16- to 25-year age bracket, how many inmates were in there?

**Hon. Mr. Drea:** First sentence? It was a very small number. Demographically, it's getting smaller every year.

**Mr. G. I. Miller:** Where did I get the figures then? I was certain there were many more young people in that age bracket.

**Hon. Mr. Drea:** No. Demographically, we're just like the public schools; we are running at one to 1,000, which has remained standard in the population.

**Mrs. Campbell:** The baby boom is over.

**Hon. Mr. Drea:** No, we're running at exactly the same rate as with people, and there are fewer younger people being born.

**Mrs. Campbell:** Fewer young people being born?

**Mr. Eaton:** They're all old when they're born.

**Hon. Mr. Drea:** Mr. Miller, if you want a complete demographic breakdown on it, we'll be very glad to supply it to you.

**Mr. G. I. Miller:** No.

**Mr. Chairman:** Mr. Renwick, I believe, and Mr. Bradley had supplementary questions. Mr. Renwick, you had a supplementary on this?

**Mr. Renwick:** No, not on Mr. Miller's line of questioning.

**Mr. Chairman:** You and Mr. Bradley are both on my list.

**Mrs. Campbell:** They're to go on at 5:30 on a philosophical discussion.

**Mr. Chairman:** Yes, Mr. Eaton informed me. He arranged that when he was in the chair, Mrs. Campbell.

**Hon. Mr. Drea:** I want to tell you, Mrs. Campbell, poor Mr. Bradley and poor Mr. Ziembra suffered long and hard through it. For every question they have asked, we have given you enough for summer reading.

**Mrs. Campbell:** That's right, I'm sure.

**Mr. Bradley:** That's what I was going to discuss with the chairman for just a moment, since we have acquiesced in allowing the minister to do some public relations here this afternoon—

**Hon. Mr. Drea:** I know it.

**Mr. Bradley:** —which, of course, is good for his ministry, by bringing forward people he felt would be able to explain to us in a little better way the programs of this ministry.

Perhaps I can get clarification about the questions that Mr. Ziembra and I asked. Do

I understand they will not be discussed this afternoon?

**Hon. Mr. Drea:** Oh, no.

**Mr. Bradley:** We are rapidly running out of time. I know that Mr. Ziembra and I spent considerable time delving into this ministry and developing some questions to ask. We were hopeful they would be asked in the limited amount of time we have.

**Hon. Mr. Drea:** Perhaps you would like to start right now with your questions.

**Mr. Chairman:** I believe that Mrs. Campbell did have a question. I'll let her ask her question and then I'll turn it over to Mr. Bradley and Mr. Renwick, if that would be okay with the committee.

**Mrs. Campbell:** I'd like to take us back to the food situation we were discussing about half an hour ago. Is there any difference in your approach nutritionally between the male and the female person in Correctional Services, and also as to the hours of service?

**Mrs. Beal:** Vanier's our only women's institution now. When we had children's programs the girls training schools had one menu and the boys training schools another. Vanier has closer to the same menu now than it has had at other times. If any of the girls are pregnant they get additional foods, milk and fruit juice. They have more casserole-type dishes and salads than the men. Some of the heavier types of food are removed.

**Mrs. Campbell:** That's interesting. I wonder if the minister could answer whether the women in Vanier are on the same regimen as to hours as the men?

**Hon. Mr. Drea:** Not really, Mrs. Campbell. One of the difficulties at Vanier, as you know, is that it is running at about 60 per cent of capacity. If you will give me about 35 seconds, I will be very pleased to announce that as of today we have reached agreement in principle with the federal Solicitor General. They are going to institute an exchange of inmates. They want to wait until September because they are doing a cost analysis. There are problems of course.

I have been very critical of the federal Solicitor General. By the same token, as they limit the number of female inmates in the Kingston penitentiary for women, obviously their per diem costs go up. As they are paying us for service, et cetera, our costs go down. The federal penitentiary service is extremely sincere. One of the problems, I will tell you quite frankly, is that with the exception of this province and British Columbia, the other eight provinces have not played fair with the federal government. They will not take female

inmates, and that has made the particular problem for the federal government somewhat acute.

Notwithstanding that, we will continue to negotiate in good faith. I am quite sure that by Labour Day or some time in September we will have in effect a very good exchange of inmates. We will do the best we can in this province—and I am sure British Columbia will also—to make sure that there is no more need for the federal penitentiary for women. But, as I would hope you would understand, the federal Solicitor General is somewhat limited when eight provinces tell him no.

In addition, we will probably be taking female inmates from Nova Scotia. People from Nova Scotia have been down in the last week or so to look at Vanier. They think it is quite a normal institution for the people they are sending down.

[5:30]

The only other thing I would like to say on that is that when we do sign the exchange, it will not be that women are leaving the federal penitentiary in Kingston to come to a provincial institution at Vanier. We want the right to put them into CRCs and to put them out into the community.

As a matter of fact, we want to put many of the federal inmates who will be coming to us into residences gainfully employed and they can do their other thing.

Mrs. Campbell: Thank you. Just a last question: Did you get Guelph cleaned up? My colleague has been worried about that.

Hon. Mr. Drea: I am working at Guelph being cleaned up but—if you will allow me another 30 seconds—after last year when you talked to me about the animals, I am very pleased to announce that I have sheep graciously donated by the agricultural school at New Liskeard. I had a good flock this year. We have cattle and calves; we have horses and foals; we have gone into ducks at the Ottawa-Carleton Detention Centre; they left us with a marsh around it; we are into ducks and they will be sold.

I really don't think it is very funny. I don't think this government should ever have got out of running farms around jails, not because the farm was productive but because it is a very, very good work skill. It is very intensive labour. It requires self-discipline and motivation to care for animals, and we are doing that. We are not doing it for profit.

What we raise, we sell or we usually donate to some community and they can determine where the proceeds should go.

Mr. Eaton: You are just like the farmers.

You don't do it for profit; you do it because you like it.

Mr. Chairman: Mr. Bradley, you had a series of questions which I believe were asked of the minister.

If some of the answers are very long, with Mr. Bradley's consent and, with Mr. Renwick's consent, on behalf of Mr. Ziembra who is in the House, you may simply file some of the questions for the record if they are terribly long and if the opposition agrees.

Hon. Mr. Drea: I will try to make them very short.

Mr. Bradley: I would appreciate some brief replies. To those that are lengthy, I have no opposition to having them filed, as long as the answers to them are on record.

Hon. Mr. Drea: I want them printed in Hansard.

Mr. Chairman: We can give instructions that they be so printed.

Hon. Mr. Drea: In your first one on my list, and certainly if my list is not correct, would either you or Mr. Renwick feel free to intervene?

The first one was on literacy of inmates. The short answer is that approximately 50 per cent of all inmates within our system are functional illiterates—i.e., have trouble reading newspapers, employment advertisements or shop manuals.

Approximately 15 per cent of inmates are very close to or are totally illiterate.

Mr. Chairman: How would that compare to the general population?

Hon. Mr. Drea: Way beyond.

Mr. Renwick: Subliminal, wouldn't you say?

Hon. Mr. Drea: No, ours would be way high, compared to the general population, very high. No question about that, very high.

Mr. Renwick: Yes, that is what I meant, their skills are abysmally low.

Mr. Eaton: Do you have any educational program in reading or anything?

Hon. Mr. Drea: Yes, in some of our sentenced inmate institutions we have that. But one of our difficulties is, remember, we are taking a cross-section of people inside our institutions. Many of them are remands, where they may go into the federal system, they may be discharged, they may go into mental health. That makes the figures a little more difficult, really, but—



**Mr. Bradley:** Is that one of the reasons you allow them to stay longer in the institution, as you mentioned in the new bill?

**Hon. Mr. Drea:** Yes.

**Mr. Bradley:** To complete a course?

**Hon. Mr. Drea:** We changed the act this year so that with the consent of the superintendent, if they are engaged in a training project, or what have you, with the remission of their sentence through work, they were technically free to go if they consent; that is if the individual inmate says, "I want to stay there because I want to complete a training program," or what have you, yes, we will let them. That is a change.

Now, by the same token, if it is the superintendent's view that this is being done for other than to advance educational opportunities, he can terminate it. That is one of the reasons. I think one of the things the members of the committee should recognize is that the sentences by the courts, particularly for property offences, are getting much shorter, and by the same token, some of the prerequisites on the outside for job training, particularly in the occupations and what have you, are getting longer.

One of our difficulties is that we have to try to rationalize between the type of training or upgrading, if you want to have it that way, that we can offer to inmates where they have a reasonable opportunity when they come outside to get full-time employment. That is what we are trying to do.

I can think of nothing more frustrating, for instance, than to enroll a four-month inmate into bricklaying because, okay, we take him along so much of the way then he has to go out and get apprenticed after he is out. We are working on all kinds of skill upgrading, rather than trade training, in order that the inmate can go out and he will be a merchandisable commodity for an employer. Then he can go on from that, rather than the traditional thing that you taught them a trade. You used to be able to teach people a trade in six or seven months, but that type of work just isn't there any more.

I think it is very unfair for an inmate who has participated fully and worked at one of our trade training projects to go outside and find no one will employ him, so therefore the amount of time that he has put into it really isn't very beneficial.

The work of the Ombudsman. That is Mr. Bradley's question.

**Mr. Bradley:** I believe he was going to save you \$10 million.

**Hon. Mr. Drea:** Mr. Bradley, with inflation it is up to \$13 million. The main thing I can tell you about the work of the Ombudsman, which I couldn't tell you a year before, was the question of the rights of francophone Ontarians, who are held in the Ottawa detention centre to have reading material and so forth in their own language.

Were it not for the Ombudsman, that probably would have meant a parliamentary committee or a commission of inquiry, which would have taken a period of time. From the time that particular complaint was made until the time the Ombudsman's correctional investigator, Mr. Patterson, went in was less than 24 hours. They did a full and complete report in less than a month.

They came out and I will be the first to tell you, one of the things that bothered me was the ministry was at fault. They had lots of magazines and so on and so forth, but one of the things is they didn't have a French Criminal Code. We immediately said, in every sentenced inmate institution in the province, in every jail or anything else, we will provide two French Criminal Codes.

What I want to say to you is, in the climate there is in this country, had that gone on through the usual process without the Ombudsman, it would have been delayed and it would have been very costly. It is all very well for the ministry to say "Oh, yes, you have got plenty of French-language literature," but it would have gone on. They did that very quickly and very completely.

The total cost of keeping an inmate in one of our institutions is about \$25,000 a year. Ten million dollars at \$25,000 a year provides accommodation for 400 inmates, or about seven per cent of the total capacity of our institutions. We believe the Ombudsman has helped us to avoid increased costs by, first, providing a safety valve for inmates and staff which helps the ministry avoid confrontations. That is the ability of the inmate to write, without anybody looking at it; he can write to the Ombudsman in an envelope that will be sealed and delivered to the Ombudsman intact.

On the other hand, the Ombudsman, through his correctional staff—I think that is very important, his correctional staff; it is not like the usual one about the citizen writing in to the government, which may involve a prolonged delay. In the fact of correctional institutions, the Ombudsman is very quick. You get your reply back. Once again, nobody can open it up. There is a special relationship between the institutionalized inmate and the Ombudsman.

The second point is that the Ombudsman is allowing institutional programs to work more effectively, thus permitting greater use of our community programs. When I introduced outside work gangs the first person I talked to was Arthur Maloney. The people who were going to be working on those programs weren't institutionalized any more; they weren't at one address. Through my deputy and through the Ombudsman, we set up a whole series of procedures. When a person went outside the institution to do work, he had just as much access to the Ombudsman as he would have had in the past when he was at the one location. We have also improved programming which we think reduces long-term costs by reducing recidivism.

I think the third point is very significant. The amount of vandalism or deliberate damage inside institutions has dropped remarkably since the introduction of the Ombudsman. Bear in mind, these aren't sentenced inmates whom we could really do something about. A great many of these cases were remand inmates. Some of them were federal parole violators who really had no responsibility to our system. When they were charged with vandalism and when the bench came upon the fact that they had damaged an institution while waiting to be sent back as a parole violator, in all fairness the bench wasn't going to impose a great penalty for doing damage to some of our institutions. As a matter of fact, for the institution in your own particular area I have a very large bill as a result of damage caused by federal parole violators. There's really nothing I can do about it.

Then there is the reduction in time spent by institutional, regional and main office staff and inspectors in investigating and dealing with staff and inmates' complaints. Mr. Bradley, I will stand by what I said last year when I gave you the number of hours and tried to reckon it out. I think the Ombudsman, notwithstanding some other things, is the greatest benefit we have had in Correctional Services.

**Mr. Chairman:** We have just heard a bell. The committee hasn't received permission to sit tonight. I wonder what the wish of the committee is.

According to the rough calculations of the clerk, you have about another 25 minutes left in the estimates. We could pass the vote with the understanding that the minister would table all of his answers and that they could be printed in Hansard.

**Mr. Bradley:** There is one point Mr. Renwick wanted to pursue, one particular avenue

of discussion that I think is worthwhile pursuing. I don't know if we can go and vote and then come back. I'm prepared to have the minister table his answers to my remaining questions.

**Mr. Eaton:** It's a five-minute bell.

**Mr. Chairman:** As I understand the rules, provided nobody moves an adjournment we can simply disappear and come back. Technically, I suppose, we could meet at 8, provided nobody pointed out what the time was. It's in fact an extension.

**Mr. Eaton:** It's a five-minute bell now.

**Mr. Renwick:** That's a five-minute bell.

**Hon. Mr. Drea:** Would you like to come back at 8?

**Mr. Bradley:** I personally am prepared to come back at 8. I don't know how other members feel.

**Mr. Chairman:** Would it not be easier to come back for 15 minutes after the bell and wind up the votes?

**Mr. Renwick:** Either would be convenient.

**Mr. Bradley:** Either is fine with me.

**Hon. Mr. Drea:** Whenever it's convenient.

**Mr. Chairman:** The House leaders could censure us for doing something we didn't have their consent for.

**Mr. Renwick:** Let me put it this way. The minister is responsible for his staff. I don't want his staff to feel they have to be here tonight just because we're going to go on for another 15 or 20 minutes. The things we discuss are matters that aren't going to require staff.

**Mr. Chairman:** Can we not just leave everything and come back in five minutes?

**Hon. Mr. Drea:** I'm willing to go along with whatever your preference is.

**Mr. Bradley:** Why don't we just come back here?

**Mr. Renwick:** Why don't we come back? We'll be finished by 6:30.

**Hon. Mr. Drea:** We're going to come back now?

**Mr. Renwick:** Yes.

[5:45]

The committee recessed for a vote in the House.

On resumption.

**Mr. Chairman:** I wonder if I can get the attention of the members. Unfortunately, another commitment has come up and I have to do some preparation for it. Mr. Eaton has kindly consented to chair the last 20 minutes of this committee for this session, but I would

like to thank all the members for their co-operation. We have a heavy agenda for September. Normally, on the last day—and perhaps we can cut this out of Hansard—normally I like to at least offer the members at my expense some ginger ale or something like that, but I won't be able to do it tonight. Perhaps we can do it tomorrow morning or at the first session when we meet in September.

**Mr. Eaton:** Tomorrow morning is a little early to start. We'll get you for supper that night.

**Mr. Renwick:** Have you decided on the order when we open in September or October?

**Mr. Chairman:** Yes, the order is the first two weeks on Mr. Roy's bill. That will be the second two weeks.

**Mr. Renwick:** Right after Labour Day for Mr. Roy's bill.

**Mr. Chairman:** Yes, for Mr. Roy's bill, so there are roughly nine days then. We've also decided we will not travel with that bill. We've posted advertising which I can easily explain to you, or one of the members can. The second two weeks will be the boycott bill, and similarly there will be no travelling involved, or hearings outside Toronto.

**Mr. Renwick:** Oh, dear. We were counting on Saudi Arabia.

**Mr. Eaton:** You're on the wrong committee, Jim.

**Mr. Chairman:** Mr. Handleman had suggested Saudi Arabia, but since he didn't properly move the motion it was not voted on. The last two weeks—

**Mr. Renwick:** Condominium and we will travel.

**Mr. Chairman:** —will be the condominiums.

**Mr. Renwick:** I understand. You're going to travel on the condominiums.

**Mr. Chairman:** We are going to travel on that bill.

**Mr. Renwick:** I wonder how you came to those decisions. It's really unbelievable.

**Mr. Chairman:** We are going to go to the metropolises of Hamilton and of Ottawa.

**Mr. Eaton:** We should go to London.

**Mr. Chairman:** I don't believe there are condominiums that have been asking our presence in London, but if we can make a case that somebody in London wants us to go to London, we'll be glad to go for hearings. Okay? See you around 9 o'clock.

**Mr. Renwick:** I understand there are fed-

eral funds available for anybody who wants to come on Mr. Roy's bill.

**Mr. Chairman:** I don't know.

**Mr. Renwick:** Was that a vote?

**Mr. Chairman:** I understand that Mr. Levesque has been sponsoring Mr. Handleman to sit on the committee and travel with us, so I guess that evens it out.

**Mr. Eaton:** You'd better say no more, Mr. Chairman.

**Mr. Chairman:** I trust that none of that was reported in Hansard, eh?

**Mr. Eaton:** He's got it all!

**Mr. Renwick:** I would hope it was all recorded.

**Mr. Eaton:** Even the ginger ale invitation.

**Mr. Acting Chairman:** What happened to the minister?

**Mr. Bradley:** Shall we send an envoy out?

**Mr. Acting Chairman:** I think he was making a ministerial statement in the House.

**Mr. Bradley:** Based on what he just said in here.

**Mr. Thompson:** I don't know whether it would be the wish of the committee if we proceeded to have individual staff who have prepared particular answers to some of the questions proceed with those.

**Mr. Acting Chairman:** Were we going to proceed with the questions? Did you want more on the questions?

**Mr. Bradley:** The procedure we were prepared to agree to—at least I was prepared to agree to, and Mr. Ziemba was in the House with his bill so obviously he couldn't be in here—was that since we are short on time as far as today is concerned the minister would table his answers to our questions and they would be in the record in Hansard, and we would pursue any other new matters that members would have to introduce, particularly Mr. Renwick had a line of questioning and discussion, philosophical in nature, that he wanted to pursue, which I thought was very reasonable.

[6:15]

**Mr. Acting Chairman:** Did anyone have any questions they wanted to refer to staff while we are waiting for the minister?

**Mr. Ziemba:** I think they have all been pretty well tabled.

**Mr. Acting Chairman:** We are waiting for the minister.

**Mr. Ziemba:** I think the staff could proceed now. Is that what we have agreed to?



**Mr. Acting Chairman:** We agreed that the answers to your questions would be tabled and given to you. If you have something specific you want to direct at the moment to a staff member we would be prepared to do that. Are there any specific questions you wanted to ask?

**Mr. Ziembra:** No.

**Mr. Acting Chairman:** Each of you wanted five to 10 minutes.

**Mr. Renwick:** Five minutes. I want to have a few words with the minister.

**Mr. Acting Chairman:** Mr. Bradley, you have the floor for five to 10 minutes first.

**Mr. Bradley:** I took an hour of the committee's time last day and I have had the opportunity to ask some supplementary questions today. What I am suggesting is that if he is next on the list I would like to allow Mr. Renwick to pursue a certain matter that he wanted to pursue at the present time. I will add any comments later.

**Mr. Renwick:** Nothing I have to say is argumentative. I personally do not understand now what is happening in the process of people from the point at which they are arrested by the police or taken into custody to the point where they are left and released from custody in areas within your jurisdiction. I am talking about all of the sentencing, all of the remand procedures and all of the arrest procedures.

None of this, as you know, is flattery. Until your advent in the correctional system, I had pretty well given up on any possibility that the sausage-like nature of the process could ever be altered to treat it as a continuum, when we recognize that the **great bulk of** people who incur these social sanctions are what could be called behavioural problems rather than societal threats in any continuing permanent sense. I am not denying that there are behavioural problems which are threats to society and against which society must protect itself, but the great bulk of them are behavioural problems of one kind or another. I suppose nothing would illustrate it more than the answer you gave to the first question of Mr. Bradley about the illiteracy level of the people within the system.

When I say I gave up getting at the problem through questioning ministers, what I say is not only non-argumentative but is non-critical in a sense of individual ministers or anything else. I am talking about the system. There is no way that we have been able to get at the problem from questioning those in charge of the police. Their perception of their operation and their jobs does not seem

to connote the kind of concern I have. I certainly despaired of getting at it through the court system as such.

I am talking about the provincial courts criminal jurisdiction and the other courts where most people come in contact with the justice system. I am not talking about whether you get to the rarefied atmosphere of even the county court criminal jurisdiction or the Supreme Court.

I understand the statistics, or the numerology, the declining enrolment and all of those things that are taking place, but speaking entirely as an amateur—and I don't for a moment profess to be an expert in the whole field of corrections—nobody has been able to put it together, except fleetingly people will make a comment and the minister will say, just to use as an illustration: "The judges appear to be treating offences against property differently now than they were two years ago or five years ago."

In my more cynical moments, I kept saying to myself, "Of course you had to have a sensitive, populist minister like yourself to deal with the matter, because if the system had gone on the way it was going, it wouldn't have been a real concern for the individual; it would have been the fact that we wouldn't have had enough buildings to hold the people who were being sent to them." I am not all that cynical about it.

Somehow or other, Correctional Services, from being low man on the totem pole, or the end-of-the-road part of this strange machine, perhaps has got to be vested—and it may require statutory authority as well as attitudinal changes in order to accomplish it—I think that in a strange way corrections—and I am not terribly happy with the term "corrections"; whatever suitable term could be used for designation purposes—somehow or other there has got to be an immense sense of responsibility by a single ministry.

Sure, they may have to deal with the police somewhere in the system. They may have to deal with the court system along the way. But there has got to be some kind of a common denominator of an institution of government that is responsible to the individuals who are hooked into the system from the point of their arrest until they are out at the other end—their probation is over, or whatever.

All I really wanted to say was that I think there may be some hope that all of these changes which are taking place, if they were put together, might indicate that from the moment a police officer effects an arrest he learns that the person is not in the custody of the police; he is in the custody of a common denominator system; that is, the custodial

part of it and the quality and nature of the custodial system, tailored to the particular needs of that individual, takes place. From there on, if the police want to question the person, he is no longer in their custody; they come to the place where custody is to make the arrangements to question him and see that his rights are protected. Then, as he goes through the court system, you see that he not only gets to the court on time but that he is treated properly at that court, because the particular ministry is responsible for him individually throughout that process.

Believe me. I am not talking about mollycoddling anybody. I am talking about a continuum which then says that both for record purposes, paper purposes, and the previous and ultimate history of that person within that system, there has been a way of looking at it, whereby I think the minister perhaps could simply say: "We don't need to refer him out for some special examination. This is a person who needs to be given reading and writing skills or something to improve his sense of dignity for himself as he goes through it."

Maybe he should not only be going out to work; maybe he should be going out to an educational institution and coming back. Maybe the whole of the record-keeping system should be correlated there so that the recidivism problem can be dealt with in a coherent way, in an understandable way.

I have gone on for some time; I didn't want to go on too long. But I have had this funny sense, from a point of having despaired of anything being done, that maybe perhaps with the changing attitudes it may be possible to pull it together. I would appreciate any comments that the minister or my colleagues might like to make about those few incoherent remarks.

**Mr. Acting Chairman:** Mr. Bradley, do you have any remarks before the minister comments?

**Mr. Bradley:** Yes. First of all, the member for Riverdale is being very modest when he called those incoherent remarks. I think they reflect the point of view of many of us who sit on the justice committee. One of the roles we hope that the justice policy secretariat would have would be to delve into matters such as those raised by Mr. Renwick. Certainly the minister himself has indicated a great need for much more co-ordination of services between the various ministries that make up the justice policy secretariat. This rather disjointed approach which has taken place in the past is quite obvious, I suppose, to those in the legal profession or to those who have to deal in the general field of cor-

rections or law, than to those of us who do not.

If I can muse just a little bit on the whole question of corrections and perhaps on a philosophical base look at the total goal we have in this particular ministry, hopefully, of rehabilitation: There are many in our society, particularly those in the field of law enforcement, who would contend that rehabilitation should not necessarily be the main goal; that punishment, if you will, should be the main goal, and that by making things as tough as possible in the prison system, by going back to 19th century justice, we can turn around the present circumstances in some areas where there is rising crime.

I think that in some cases rising crime is exaggerated, perhaps exaggerated more by television—by the type of programming there is, by the type of movies there are, which instil in the general public an uneasy sense that crime is soaring at a rate that has not been perceived in the past, when, indeed, steps are being taken to correct it, not only punitive steps but in terms of rehabilitation of those within the system. At the risk of complimenting not necessarily the minister but the ministry itself, I would share Mr. Renwick's view that at least there is some light at the end of the tunnel.

Just as a final parting shot, or discussion of the ministry itself: I think it is significant that there are many in the Legislature itself, many within my own caucus who find it different that the critic for a specific ministry is kinder to the minister or to the ministry than has been the case in the past in that ministry or is the case in other portfolios. I think it should be made clear that there are specific reasons for this. Without going into great detail, I indicated in my opening remarks that much of it surrounds the actions, not just the words, taken by this ministry in the last year.

Secondly, when there are questions in the House, we don't get a "Yes," "No," or "I'll look into it" answer. We get a detailed answer, an answer which gives every indication that the minister himself is so much absorbed in his ministry that he understands even the minute details of it.

Thirdly, I have experienced, and I am sure the critic for the NDP would agree, the greatest co-operation from staff whenever we have asked particular questions of that staff, be it at prebriefing or through written questions or by telephone conversations. We have had the utmost co-operation of the staff in answering our questions in a very frank manner.

[6:30]

We have, through privilege, the right to visit the institutions in 99 per cent of the cases, when there isn't a riot in full bloom, if ever there is. This again allows us an opportunity to view at first hand the institutions we are talking about and the programs we are talking about. I purposely asked the minister to elaborate on this because not many people understand the real role of the Ombudsman and the change the existence of an Ombudsman has made in the province of Ontario. Members themselves have access to the Ombudsman. If, for some reason, we did not want to deal with the ministry, we may deal with the Ombudsman. This is certainly an advantage.

I have had an opportunity on a couple of occasions to deal with the Ombudsman on matters that have to do with Correctional Services. I have felt that there was confidentiality there and that I was dealing exclusively with that particular department. I think it would be fair to say that the minister is a master of public relations. That's a compliment as well as a criticism. It is a political criticism and an administrative compliment. He's a master of public relations as we have seen.

**Mr. Ziembra:** It is also an understatement.

**Mr. Bradley:** It is an understatement perhaps, as Mr. Ziembra says. But the minister has also taken, which I think is important, the initiative to inform the opposition critics of any changes in policy ahead of time and of any particular situations that have arisen that might be a matter of controversy within a few days before they hit the headlines. When you are taken into the confidence of a particular individual who could hide many things if he saw fit to do so, the trust of that individual is bound to increase. We appreciate very much the frankness that the minister has shown to us in terms of allowing us some of the insights into his ministry.

Having said that, I look forward to reading the answers to the questions that I have posed and that Mr. Ziembra has posed which will be on the record. Should we have any supplementaries, I will certainly pursue those with the minister either through questions in the House on a public basis or through discussions with the minister privately or with members of his ministry.

**Mr. Chairman:** I think Mr. Ziembra had something too.

**Mr. Ziembra:** I have just a comment or two. I think the concept of rehabilitation is really irrelevant and I think the ministry

agrees with me that no correction takes place in the Correctional Services ministry. It's basically a warehousing operation. I believe that the ministry's aims have been changed from one of rehabilitation to one of returning the offender to a community-based resource centre or community-controlled program.

However, this can't be done overnight. I realize that. It all takes money. No thinking government in this day and age of restraint is going to spend an awful lot of money on community-based centres. One thing that the minister has promised me, on which I am going to take him up, is the reallocation of funds away from building of new expensive jails that become filled to capacity on almost the day they are built and the funnelling of that money back to the community and back to where the offender came from and turning the responsibility over to the community to help in establishing a new life for the offender.

Having said that, one thing really bothers me. I don't know how the other members of this committee feel about it, but most people's experience with the criminal justice system is that of being locked up in a jail. It has very little, if anything, to do with this ministry. One is usually picked up and taken to the local police station. The minister has no control over that, but there should be some way perhaps that we could move in this committee to try to rationalize the whole system so that this minister, who has a strong sense of right and wrong, as far as the treatment of human beings is concerned, could take over that function, could take over the actual lockup of individuals from the first night on.

We constantly read horror stories about the suicides in these lockups. I think if conditions have deteriorated in our corrections ministry to the level that, say, small lockups have, then we would really be in trouble in this province. I say that having just read carefully the accounts of the treatment of a motorcycle gang in the Kitchener regional police station by the—for want of a better word—the SWAT squad that was organized by Chief Brown, and the treatment of 14 native Canadians, I believe they were all native Canadians, in the Manitoulin lockup. There were 14 people locked up in a tiny cell six feet by nine.

**Hon. Mr. Drea:** If I could interrupt, we have done something about that, notwithstanding the fact that it's not within our jurisdiction. I think it's germane to the points that Mr. Renwick and Mr. Bradley have



made. When I was apprised of that by reading it in the paper, I had the local jail superintendent from Sudbury in. That's within that catchment area.

We have gone over there and we have tried to show what improvements could be made. I don't want it to be made because of me, that I necessarily agree with what Judge Hogg said. I know the problems on Manitoulin Island. I know the problems of close confinement and a lot of other things, but we have tried to lend them our expertise, notwithstanding the fact that it is not within our parameters at all.

**Mr. Ziemba:** In which way, Mr. Minister?

**Hon. Mr. Drea:** We've tried to show them, in terms of double bunking, in terms of making the cell accommodation suit more people. I think one of the things you have to bear in mind—and it's a great concern of mine—is that there are a great number of people in this province who are arrested daily who have not committed a Criminal Code offence. They've committed a bylaw offence or, if they've been drinking, they've committed a provincial offence. They're incarcerated for certain periods of time. Granted, there have been some improvements in the Criminal Code and in the justice system in the last four or five years where they're not required to spend a long time there but they're required to spend a period of time.

I'm also fully aware of the fact—and I suppose that perhaps I'm more sensitive than most of the members because my own family isn't white—I am very understanding of particular problems that natives have, particularly in regard to alcohol. On the other hand, I have to be understanding of what the criminal justice system, or the police, if you want to say that, have to deal with in terms of weather and some other things. Quite often we put people in jail in northern Ontario for things that are not things we put people in jail in southern Ontario for. The reason that they put them in is to at least make sure they don't die.

Quite frankly, I have to be aware of those problems. I know, for instance, why the Kenora jail is a very large institution in this province, particularly large in terms of females. The Kenora jail deals strictly with alcohol offences. I don't give two hoots whether they've changed the Criminal Code so that you can get out on your own recognizance or you're coming in on a warrant of committal—I know why you're coming in. I know why the Sudbury jail is crowded.

I know why the OPP holding cells over on Manitoulin Island are very crowded. With the greatest respect to Judge Hogg, I'm sure he knows too.

We are—not I as as the minister, certainly, but as a government—simply going to have to change that kind of thing. If it requires funds in addition to governmental restraints, so be it. We are going to have to do that. It's not just Manitoulin Island. It's not just Kenora. It's not just Moosonee. I can tell you all the places where alcohol is having a profound impact in this province. But we are going to have to do it.

If the municipality can't cope with it or the district can't cope with it, then damn it, the province is going to have to cope with it. There may be a day when you may not be as friendly to me as you are today. But I'm going to come in with bills and I'm going to tell you how much it's going to cost. We are going to do it. If we don't do it, what is going to happen a few years down the road will have quite an impact upon the community; not just in terms of human beings but quite an impact in terms of dollars. We are going to have to do it.

With all due respect to my colleague Mr. Grossman, I don't understand how we can be at this time liberalizing a liquor control act—and the operative word is "control"—when I know, and I've talked to my officials here, that just by the passage of that act we're going to have a 10 per cent increase in the number of people coming into our system. I honestly don't know what society wants.

On the one hand, they're telling me we shouldn't be jailing so many people—and I speak, Mr. Renwick, to some of the things you've said—and they don't want people being jailed for alcohol. By the same token, I can give you 12 jails in this province where I'm going up sky high on alcohol right now, and they put in certain things like Sunday drinking et cetera. I'm really going up. What am I doing? I'm just housing people for one day, two days. I'm not in a position to put them into any type of program. What does society want?

**Mr. Ziemba:** Can you promise us you'll oppose the selling of beer in the ball park?

**Hon. Mr. Drea:** Oh, yes. Mr. Ziemba, with all due respect, I'm one of the people who said no, right from the beginning. No that's very easy.

I seriously think this is the tip of the iceberg. We have a tremendous problem in this province with alcohol. Nine out of 10 people who are in jail tonight—about 5,400 in this province—are in because of alcohol-related

offences. At the same time, the federal government—and these are supposed to be the hard core people—has 80 per cent in. Yet here we are in this Legislature in September going to make it easier to get a drink. Society really has to start taking a look.

I'm sorry I interrupted, go ahead.

[6:45]

**Mr. Ziemba:** You've dealt with the thing that was really bothering me, the Manitoulin Island lockup. It is on the edge of an Indian reservation. People up there aren't that interested in what goes on there, I suppose, because it's just native Canadians who are locked up. I guess no one really worries too much if 14 of them are locked up in one cell, and the morning after, one ends up with a broken jaw. This is what so incensed Judge Hogg.

On that point, Mr. Minister, could you provide a detox, a treatment centre in the area, rather than a lockup? Not you, but could you suggest it to the Solicitor General (Mr. Kerr), or whoever it is you are going to have to suggest it to, that we provide some facility? When the judge describes it as reminding him of Belsen—Belsen that conjures up a horrible mental picture. I don't think in this day and age, in 1978, in this very wealthy province, we want to treat human beings in that way.

**Hon. Mr. Drea:** If I could just say something for about a minute or two—and I suppose perhaps the member for High Park-Swansea, and myself, have rather profound views upon this subject.

One of the things that concerns me a great deal is our use of warrants of committal in that area. I know that people ask me about it from time to time, and I am sure, Mr. Renwick, that you have really wondered about it in your own mind. What in the world are we doing when we have major facilities in Kenora, and you don't even go to jail in Kenora for being drunk? Under the provincial act, everybody waits until—you haven't even gone to trial. We do a warrant of committal; they do a sweep and bring you in. What are we doing in Sudbury when the catchment area is Manitoulin Island, and now we are down to warrants of committal over there?

I have a very distinguished staff in this room today, and they can tell you far better than the minister exactly what that means. I suppose there have to be some remedies in the system of justice for those who don't show up on time for the trial and everything else. We are putting people into close confinement for 14 to 30 days. In a number of cases, that close confinement is much better than they have at home.

For instance, in the Sudbury jail we have natives from Manitoulin Island becoming very interested at night in the operations of the flush toilet because they have never seen a flush toilet. So then what is the deterrent value of the jail? What are we really doing? I will tell you there is nothing sadder, more futile, than to walk along on Friday night in the jail corridors of the Kenora jail and have people looking at you with—they just look at you; male and female.

At the same time, according to all the dictates of society, and according to all the rules that I and my staff, and I think it should be underscored—my staff—have to look at, we have no alternative. We know it is absolutely futile. There is not a single program that we can get people into who are in that position. There is not one darn thing we can do for them. We can keep them for a certain period of time, which is what the court says, then we can let them out. And I know, and so does my staff, one week later, or if the snow falls maybe two weeks later, we are going to have them back.

I honestly don't think the people of this province want that. I think the people of this province are willing to pay the bill. I think the people of this province want something done. I think what has happened over a period of time is that we have all got used to it.

I certainly wouldn't have any difficulty, nor have I ever had, with going out to the people of this province and telling them exactly what it's going to cost. I'm not going to do it on weekends; I'm not going to do this; I'm not going to do that. Bearing in mind the human condition, we're going to, as best we can, put people in a position where they can be motivated; where at least they can accept a decision to try. That's what we're going to do.

I don't care two hoots for the Treasurer and his restraint, I don't care two hoots about what they're saying anywhere else. Somehow, I'll find the money. I'll tell you this: If I can't find the money, then I'll pack it up. I'm very serious; I'm tired of walking down jail corridors and looking at those eyes, looking out at you.

Now I'll tell you some of the things we've been able to do. In terms of the retarded, we've deinstitutionalized the retarded in this province. I think that's tremendous. But there's going to be a failure rate. What I am concerned about is that, once again, we'll get the failure rate in the jail system. We have built in a layman system in the local jails; we have built it in from the superintendent, from the COs, right on down. The layman

system is that if you see somebody who appears to be retarded, then that person is immediately flagged on remand. We'll get him a professional examination, although there's not too much time; in some places there's only seven days between the remand.

We've had great success with this. We've found people who have an IQ of less than 65 and have never been to a doctor; we've got them off to Edgar. We had to fight it through on the remand facilities, because what Mr. Renwick is talking about is this mass production of justice. I don't fault the bench for this. But we have to do it, and we are doing it.

We're going to go on with these types of people, because they shouldn't be in the jail system. They may be offenders in the community, and they may have some accountability to pay. But they can do some accountability in some other aspect of a government program; they can do it in Health or in Community and Social Services. But I'm damned if we're going to have all the failures from the progressive things we've done in this province coming back into jail corridors, because it puts us back 100 years.

I'm sorry I spoke so long, Mr. Ziembra, but you touched a chord very close to my heart. I would like to reply to Mr. Renwick, and I can do it in about a minute: I'm doing everything he says I should be doing.

**Mr. Acting Chairman:** Do you have any more questions you want to ask, Mr. Ziembra?

**Mr. Ziembra:** If the committee members don't object, I would like to hear from someone on the staff who would speak on the warrants that are causing such a great problem in the north. I think that would be of interest to us.

**Hon. Mr. Drea:** On the warrant of committal?

**Mr. Ziembra:** Yes.

**Hon. Mr. Drea:** I don't really think you need the staff there. The warrant of committal, as I'm sure all the members understand—

**Mr. Ziembra:** Is it just in northern Ontario that—

**Hon. Mr. Drea:** No. In the city of Toronto now, for 25 non-appearances for drunkenness you get a warrant of committal.

In the north—and remember these are provincial offences; drinking is not a Criminal Code offence—in the north they probably don't have the numbers; so it's two or three times they come in and sweep up. That's what it's known as—

**Mr. Renwick:** Maybe it's because they're

easier to find up north and they're harder to find in Toronto.

**Hon. Mr. Drea:** No, Mr. Renwick, it's not only that they're easier to find; there's almost a thing about not showing for the court offence, which bothers me somewhat that you should defy the court procedure because it's more convenient for the logistics of the criminal justice system to come in, sweep you up and we're got you for 14 days. That bothers me.

**Mr. Renwick:** I think the point I was trying to get at, in a more or less detached way, is very much what Mr. Ziembra was saying. I think in an ideal system—or at least in my theory of an ideal system—the custodial part should be entirely separate from the police and court part of it.

**Hon. Mr. Drea:** You're right.

**Mr. Renwick:** There should be a special system by which if the police pick up someone, legitimately or otherwise, he is turned over immediately, forthwith, by the police to a custodial system whose responsibility is to see that that person is followed through the system and gets both a fair shake and is watched, rather than this business where he is in the hands of the police, is then a short time in the court and then in the hands of the police. The police view of their responsibilities is such an entirely different one that the individual gets lost in the system; it's not seen as this person being arrested today and two years less a day hence he's going to complete a sentence.

**Hon. Mr. Drea:** I think you've been far too modest in describing your efforts. You're a very experienced trial lawyer. You've been a very experienced member of the profession for a number of years.

I think one of the difficulties is that in this country we still don't know how to deal with the offender. The police, at the front end of the criminal justice system, have two roles: to prevent, and if they can't prevent to apprehend. Then we go into the full-fledged court system. After that, after adjudication, the offender comes to us.

One of the most frustrating parts of this portfolio is that there are things built into the criminal justice system in this country, such as mandatory sentences, so that no matter how many community service orders or that type of project or alternatives to incarceration we bring in, there is no alternative for the bench. By the same token, there is no real alternative for the police. I accept your proposition that if we're really going to become interested in the offender—



and by interested I mean that the bulk of the offenders who are not dangerous either to themselves or to the community are going to be back in a very brief period of time—there has to be a better system. Quite frankly, the present system is built upon the fact that there was massive diversion. A century ago, or even a half-century ago, people didn't go into incarceration unless they were dangerous. Somehow, over a period of some time, jail has become the absolute deterrent. You put somebody in jail for a day or a week or a month or a year or what have you. In 80 per cent of the cases, jail is absolutely futile.

The function of jail is to protect the public from the dangerous. Four out of five offenders aren't dangerous to themselves or to somebody else. The difficulty, when you suggest that it should be my responsibility—I know you weren't really suggesting this but when it is my responsibility or that of my friend the Attorney General (Mr. McMurtry) or what have you—is that we're so hidebound by tradition that we have a book up there and there are no alternatives. Once it is written in that book there aren't any alternatives.

We have impaired drivers. There's no question that impaired drivers are very dangerous to public safety. By the same token, Friday, Saturday and Sunday in jail is no deterrent to the impaired driver. In that brief period of time there is no way the correctional ministry, no matter how good it is, can start to get at the problem that will stop that particular person from acting in a very anti-social manner and doing it in a very dangerous way. Yet here is the federal government going to increase the thing. They are going to crack down on impaired driving.

[7:00]

I know that makes great headlines, but by the same token I have the bottom-line responsibility. Those people are going to go out again and what are we going to do about them? That's your concern and my concern. I don't think this particular set of estimates, notwithstanding the fact that presumably Mr. Bradley is getting hell from Mr. Smith, or Mr. Ziembra is getting the devil from Mr. Cassidy, I think we have really set something straight this time. There is a function to making Parliament work. Parliament in this province happens to be the Legislature. We have a problem with offenders, and I think the faster we try to get down to and put forward some positive suggestions, put forward some experimental ideas, or we do things with imag-

ination or with some innovation, I think that is exactly what the public wants.

I will tell you, the one thing that frustrates me no end is that I know darn well 50 per cent of the people who are in jail tonight, either on remand or on conviction, shouldn't or needn't be in jail. We can do other things for them. We can have them out working. We can get them back into the community and everything else, and yet here we are year after year—\$117 million this year, and for what? I really think it behooves the Legislature—

**Mr. Ziembra:** That's not including the new construction.

**Hon. Mr. Drea:** —to start standing up and saying no, we are just not going along with the traditional system, that there are better ways. I certainly commend, notwithstanding the criticism that may be levelled by the media or something else, I really think the members of the Legislature should really come on, they are our kind of people; we have to pay the bill, we have to go home every night, we have to go back in the neighbourhoods. By the same token, just bear in mind that nine out of 10 of them are there by dictate of the Ministry of Consumer and Commercial Relations, because that's the ministry involved with the Liquor Act; nine out of 10 of them. We did it, we voted on it.

**Mr. Acting Chairman:** Anything further? Any further comments? Okay, it has been agreed by the committee that all the questions that were tabled will be answered, and the answers and questions will both be recorded as part of the procedure of this committee.

**Hon. Mr. Drea:** You have to vote or I don't get a salary.

**Mr. Acting Chairman:** You are going to get your vote. We are coming to that.

**Mr. Bradley:** One dollar.

Votes 1501 to 1503, inclusive, agreed to.

**Mr. Acting Chairman:** Okay, the votes are all carried. Shall the estimates of the Ministry of Correctional Services be reported to the House?

Agreed.

**Hon. Mr. Drea:** With all due respect, Mr. Chairman, can we have the understanding that the particular questions asked by Mr. Bradley and Mr. Ziembra will be filed into Hansard and reported through Hansard?

**Mr. Chairman:** As part of the committee. I just said that before we passed the votes. We have got that on record.

The committee adjourned at 7:03 p.m.

## CONTENTS

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Thursday, June 22, 1978

Ministry administration program .....	J-237
Institutional program .....	J-237
Community program .....	J-237
Adjournment .....	J-262

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Campbell, M. (St. George L)  
 Drea, Hon. F.; Minister of Correctional Services (Scarborough Centre PC)  
 Eaton, R. G.; Acting Chairman (Middlesex PC)  
 Handleman, S. B. (Carleton PC)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P. (Humber PC)  
 Miller, G. I. (Haldimand-Norfolk L)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Renwick, J. A.; Vice-Chairman (Riverdale NDP)  
 Ziemba, E. (High Park-Swansea NDP)

**From the Ministry of Correctional Services:**

Beal, I. E., Co-ordinator, Food Services Consultation and Training  
 Beavan, M., Women's Adviser  
 Daniels, A. F., Director, Personnel Branch  
 Thompson, G. R., Deputy Minister











# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Wednesday, October 25, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC



## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff at (416) 965-2159.

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# LEGISLATURE OF ONTARIO

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WEDNESDAY, OCTOBER 25, 1978

The committee met at 10:16 a.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

**Mr. Acting Chairman:** I will recognize a quorum.

The committee has before it the estimates of the Attorney General. This is as a result of an order of reference, a motion moved by Hon. Mr. Welch yesterday, as follows:

"Ordered that in the circumstances of the changes of appointments within the executive council of October 18, 1978, affecting the Minister of Consumer and Commercial Relations, the estimates of that ministry be considered following the estimates of the Attorney General."

I understand the Attorney General would like to ask the committee as to the schedule of—

**Hon. Mr. McMurtry:** I just wanted to get some guidance with respect to the schedule, particularly in reference to next week. I think this week we are sitting this morning, tomorrow afternoon and Friday morning.

Next week, as the members know, is the first ministers' conference in Ottawa, on Monday, Tuesday and Wednesday. Neither myself nor the Deputy Attorney General will be available until Thursday of next week and I just wanted to indicate that to the committee and ask whether this causes any problem.

**Mr. Renwick:** So we meet again on November 2.

**Mrs. Campbell:** Mr. Chairman, it is fine with me, but I assume that we protect our hours in the circumstances.

**Hon. Mr. McMurtry:** If we are not sitting I assume the clock is not running.

**Mrs. Campbell:** Well I don't know. It has in the past on occasion. I just wanted to raise that point.

**Mr. Acting Chairman:** Fine. Are there any questions?

**Mr. Lawlor:** As long as it is understood that nothing runs against us.

**Mrs. Campbell:** That is right.

**Mr. Lawlor:** You may do what you wish at the first ministers' conference.

**Mrs. Campbell:** You may take off with our blessings. But do report back.

**Mr. Acting Chairman:** So we will be sitting on Thursday and Friday of next week, not Wednesday.

We will begin with an opening statement by the Attorney General.

**Hon. Mr. McMurtry:** Thank you, Mr. Chairman. I am, of course, very pleased to be appearing, I guess for the third time, to present the estimates of the Ministry of the Attorney General.

Before we start to consider the estimates in detail, I would like to review briefly at least some of the highlights of the past year in so far as the activities of the ministry are concerned.

In the speech from the throne earlier this year the government reaffirmed its commitment to fundamental law reform. It was stated, and I quote: "Only by maintaining and improving the processes in the administration of justice can the rights enjoyed by all citizens be adequately protected and the claim of each citizen to equal justice under the law be guaranteed."

Since then I believe we have continued to make major strides towards law reform and administrative change. Our many initiatives in law reform and bringing many areas of the law into greater concidence with the demands of contemporary society, I believe are well known to all members of the committee.

A second major aim in the past three years has been to bring the law and the administration of the law closer to the people of this province to promote greater citizen access to the law. The process of the law, the courts, tribunals and the legal profession must be more readily accessible to the citizens of this province, whether they live in a major urban area like Metropolitan Toronto or in more remote areas of the province, whether they are rich or poor, whether they speak French or English, or indeed any other language a number of citizens regard as the language necessary to carry on everyday activity.

Similarly, the substance of the law must be accessible and comprehensible. I'd like to touch on these themes, at least briefly, later in my remarks.

I spoke a moment ago of law reform and all of us in this Legislature should be proud of the strides we have made in this area in the last three years. Family law reform is the most recent and I think the most dramatic illustration of this law reform and the activities of the Ontario Legislature.

I have spoken frequently during the past years about the importance of the family law area, and as a result of the legislation which came into force at the end of March profound changes were made in our legal system. These changes have had a great impact on the community. Across the country, governments of the other provinces are studying the Ontario approach as they confront the same pattern of outmoded and unjust legal rules with which we were burdened, at least until recently.

I was pleased to note that in British Columbia, Manitoba and Prince Edward Island, the recent family law reforms are really cut from the same cloth as those in Ontario. It is still a little bit too early to measure the impact of our statutory reforms, but we in the ministry are monitoring the decisions of the courts throughout the province to the best of our ability. As a result of this monitoring process and as a result of cases I myself have read, I am satisfied that both the courts and the profession are approaching the new legislation with sensitivity, honouring the principles that are so fundamental to the legislation.

Property has been divided equally between husband and wife in many cases that have been reported, and conduct has been relegated to a very minor role in assessing support. The contribution of the homemaker spouse has been recognized in many decisions. My report at this stage is that the legislation appears to be working well.

As I've said on previous occasions, one of the most significant initiatives we have taken is to set up a pilot project related to the unified family court. This project has been operating in Hamilton for 16 months of its three-year experimental period.

I received an annual report from the judiciary; that report, together with reports from members of the bar and our ministry personnel involved with the court, are all very encouraging. We do not have yet a formal evaluation from the full-time research component attached to the court; such an evaluation is not expected until at least next year.

However, I am able to report that all indications are that the court is functioning well. A survey taken in May among members of the bar in Hamilton shows a high degree of approval of the way the project is working. We are especially pleased with features such as conciliation, pre-hearing conferences and referrals to social service agencies, all of which make the atmosphere of the court less adversarial and which, therefore, are conducive to settlements that are in the interests of the litigants and of the community as a whole.

As a result of our early success in Hamilton, I wrote to the federal Minister of Justice over the summer, asking for his co-operation in extending the unified family court to other judicial areas even before the expiration of the three-year period that was envisaged in the legislation. I am pleased to say that Mr. Lang has indicated his willingness to co-operate with respect to the extension of this particular court into other areas, which of course involves judicial appointments at the federal level. My ministry is therefore looking at possible locations for additional unified family courts. This involves a consideration of caseloads, administrative staff, court accommodation and community social services resources, among other factors. I expect and hope to have some concrete proposals for expansion of the court early in 1979.

As the members know, the government is committed to a continuing expansion of services to francophone Ontarians, in relation to the administration of justice in particular, and I am pleased to report that my ministry does give, and will continue to give, these services the highest priority as they relate to the administration of justice. Earlier this year, as you know, the House gave approval to Bill 71, An Act to amend the Judicature Act, and Bill 72, An Act to amend the Juries Act. This important legislation has enabled the ministry to further expand its French-language court services. Bill 71 permits the government to officially designate courts in areas in which French-speaking residents may elect to testify in French and to have their evidence directly received and understood by the court without it being relayed through an interpreter. We expect that such proceedings will be bilingual, but provision has been made for unilingual French proceedings where circumstances warrant. Bill 72, as you know, enables the selection of bilingual jurors.

I am pleased to be able to report that French-language services in the provincial



court, criminal division, continue to be available in Sudbury, Espanola, Ottawa, L'Orignal, Hawkesbury, Rockland, Cochrane, Kapuskasing, Hearst, Smooth Rock Falls and Hornepayne. As a result, French court services now are available to approximately two-thirds of the residents of Ontario who speak French only. We hope that further expansion will take place in Cornwall in the near future. The provincial court, family division, now is offering French-language services in Sudbury and in Ottawa; and we will continue to work on further expansions. I expect to be bringing orders to cabinet in this respect within the next week or two at the outside.

#### [10:30]

Within the next few weeks we shall be bringing our Provincial Offences Act back to the House for further consideration. Over the summer we have been considering a number of submissions from interested individuals and organizations, which have enabled us to make improvements and a number of corrections—if I might put it in those terms—throughout the bill. A reprint of the bill, with the proposed amendments, was distributed at the opening of the Legislature in order to assist members to know what amendments are being proposed rather than go to the amendments on a piecemeal basis.

The Provincial Offences Act will establish a totally new and comprehensive code of procedure under which all offences created by provincial statute law will be prosecuted. It will stream minor regulatory cases out of the formal court system and will strip away many of the legal complexities which now lead to great waste and delay. A large number of procedural steps and their attendant paperwork and court time will simply be abolished.

We intend to place a new emphasis on civil remedies, such as suspending a driving licence for default in the payment of fines, rather than using the sanction of imprisonment.

The provincial offences bill replaces the Summary Convictions Act which incorporates by reference many provisions of the Criminal Code of Canada. A companion bill, the Provincial Courts Amendment Act, establishes a new provincial offences court.

In these bills we have formally recognized that offences under provincial statute law are for the most part regulatory and that it is therefore wrong in principle to deal with them in the same procedural stream as offences under the Criminal Code.

The act will bolster the citizen's ability to answer charges, by making the assertion of a defence or explanation more convenient,

speedier, less expensive and less intertwined with legal technicalities.

I look forward to discussing the bills with members of the Legislature in the near future.

The legitimacy of the legal process rests upon the twin principles of the equality of each citizen before the law and the right of the citizen to understand and participate in the legal process. Coupled with our efforts to make the legal system more just and more efficient, we are determined to improve public access to, and understanding of, the law. In keeping with this aim, we established a communications branch—I believe for the first time—in the ministry last year.

The communications branch has produced a pamphlet and booklet on the family law reform legislation which took effect at the end of March. We have made this widely available through a variety of outlets, including the constituency offices of the members who wished the booklets, court offices of the ministry, and indeed even in supermarkets. More than 300,000 copies of the pamphlet and more than 100,000 copies of the booklet have been distributed to help the public understand this important legislation.

This booklet and this pamphlet are, of course, available in both the English and the French language.

In the next few weeks the branch will be distributing copies of a 30-minute film on the family law reforms to all 600 secondary schools in Ontario. We believe it is important that young people have an understanding of the reforms which directly affect their rights and their responsibilities.

From discussions with educators I know that the film will be of value in schools as well as in explaining the reforms to community groups that will have access to it.

As I've said, all this material—pamphlets, booklets and films—is available in both French and English.

Last weekend I met with a number of the law teachers from the high schools throughout the province who were in Toronto for a conference and I can report that they were very enthusiastic about the availability of this material.

When the Legislature gave approval to amendments expanding the jurisdiction of small claims courts, we produced a similar pamphlet on the highlights, as well as a booklet explaining step-by-step procedures to assist people in what has been aptly described as the "people's court". I believe that with the expanded jurisdiction and reform procedures, the small claims court provides an increasingly valuable service, particularly for resolving consumer complaints.

We are also putting the finishing touches on a film that depicts a typical day in the provincial court criminal division. We believe it will be valuable towards further understanding of this level of the court system, with which the public has the most contact. Behind these efforts is my belief that the ministry has a duty not only to explain new programs and legislation but also to heighten public awareness about the law in general and its importance to society.

Non-lawyers, of course, often remark on the complex or the apparently complex intricacy of much of legal procedure. I am pleased to report that progress has been made on a number of fronts to reform the procedures of our courts and to make them less complicated. In April of this year, Mr. Walter Williston and his colleagues on the civil procedure revision committee, which I created towards the end of 1975, circulated their working draft of the new revised rules of practice. I personally was delighted to see that the working draft proposes changes in virtually all parts of our civil procedure in order to streamline and simplify the rules and to ensure that the citizen's claim to justice is not frustrated by unnecessarily formal procedural obstacles.

Rethinking the rules of practice, of course, requires close co-operation with the legal profession. The committee spent the summer crossing the province engaging in a lively and constructive dialogue with groups of interested lawyers. I understand that the work of the committee towards a final revision of the rules of practice is well advanced and that we shall be tabling the report, I expect early next year.

While perhaps the major substantive reforms in the area of family law are behind us, our work is continuing in the family law area. Within the next year I shall be introducing into the House the second phase of our children's law reforms. New legislation effecting major reforms of our custody and access legislation, including guidelines for the courts to consider in determining what would be in the best interests of a child will be introduced within the next two or three weeks.

Secondly, with the assistance from the special consultative committee chaired by Dr. Mendes da Costa, the chairman of the Law Reform Commission of Ontario, my staff and I are developing a new policy on machinery for the independent legal representation of children. As some of you know, we recently received the second report of the committee on this difficult and important subject, and some of their recommendations were adopted in relation to amendments of the

Child Welfare Act, virtually at a time when the second report was barely off the press. Fortunately, the timing worked to everyone's advantage.

Discussions are continuing with the official guardian who will have a major role in supervising the provision of legal representation for children caught up in family disputes. In co-operation with the federal government we've also started a number of innovative new projects to explore the feasibility of court-based conciliation in family disputes.

During the next year we shall be placing increased emphasis on conciliation in family matters. The technique of conciliation can yield pre-court settlement rates of up to 80 per cent in cases involving child custody. It promises not only a more humane but also a more economic method of dealing with family conflict. The special project which was established at the provincial court family division on Jarvis Street in Toronto has been enthusiastically welcomed by judges, lawyers and the client, and most importantly the client public of the court.

I am looking forward to participating in a conference on conciliation to be held this weekend in Toronto which will review the progress of the various projects and discuss the problems which are starting to emerge. I am confident that the concept of conciliation offers us an exciting and humane alternative to the court process, enabling families to resolve their difficulties outside of a formal adversary hearing.

As part of the general government commitment to financial constraint, we are reviewing every facet of our ministry's operations to ensure economy and efficiency. However, I remain unchanged in my conviction that the system of justice which the citizens of this province expect and to which they are entitled will require us to face difficult decisions that should involve spending more rather than less in the justice system. But, where possible, we are making economies and reducing budgets.

If there is one page of the entire estimates book that I think demands careful and constant scrutiny—not just by the justice committee of the Legislature but by my own colleagues around the cabinet table—it is the last one in the book. I have remarked on previous occasions that our ministry generates considerable revenue as a result of fees, costs, fines and charges. The table at the back of the briefing book shows clearly that of every dollar spent on our ministry's activities, 72 cents is paid directly by the public who use the legal system. In a very real sense, justice has paid its own way.



A team in my ministry is taking a close look at all operations to see whether we can increase the revenue on a reasonable basis derived from the public who use the system. Increased revenue is perhaps one way to guarantee the same level of service or a better level of service to the public even at a time of fiscal restraint.

Last Thursday, in a speech to the annual convocation of the Law Society of Upper Canada, I outlined the government's future plans in relation to legal aid. The law society had submitted an extensive brief forcefully arguing for an increase in the legal aid tariff, but accompanying the request for more funds were suggestions to improve the Ontario Legal Aid Plan and to increase the efficiency of the system as a whole. I was personally very impressed by the proposal for a tariff increase, particularly in view of the fact that there had been no tariff increase since 1973, during which period I believe the cost-of-living index increased by about 40 per cent.

I believe that in the Ontario Legal Aid Plan we do have a unique vehicle for ensuring the goal of equality before the law. A state's commitment to preserving the rights of its citizens can be measured and tested by the zealotry with which it protects the fundamental dignity and basic freedoms of those accused of breaking its laws. Since the ultimate guarantee of the rights of accused is the provision of vigorous, skilled and effective defence services, support for legal aid in my view is an accurate hallmark of a state's dedication to the role of law itself. The skill of defence counsel is a powerful and independent guarantee to society that the state's coercive powers are being applied fairly and accurately.

The Ontario Legal Aid Plan enjoys the firm support of the government. I told the law society that the cabinet had agreed in principle to increase the tariff of fees paid to lawyers for legal aid work and that additional funding would be made available during the next fiscal years. But I also emphasized the cabinet's desire to maximize the effectiveness of legal aid. I intend to work together with those who operate the plan to ensure the greatest cost economy of the plan. The main discussions with the directors of the plan are therefore yet to come.

We shall be reviewing the legal aid tariff to promote quality of service by encouraging increased participation of senior counsel and to develop new rates which reflect economic changes since the last revision. However, at the same time we are examining other methods of increasing quality and cost-effectiveness, such as legal aid clinics and

the possibility of a public defender component.

[10:45]

A two-man committee, consisting of a representative of the criminal lawyers' association, who also represented the Law Society of Upper Canada, together with one of my law officers, undertook over the summer a comparative analysis of the methods used in other jurisdictions to provide competent defence services for accused, including the controversial alternative of a public defender system. This committee learned a great deal from this discussions with lawyers and officials in other jurisdictions, much of which can be applied in Ontario to improve the quality and effectiveness of our legal aid system.

Secondly, as you know, I asked Mr. Justice Samuel Grange of the Supreme Court of Ontario to undertake a review of community-based legal services, such as the various clinics, in order to outline a new direction and funding policy for clinical legal aid services. I look forward to receiving Mr. Justice Grange's report within the next two months.

As part of our efforts to bring the justice system closer to the people, my ministry has opened new provincial court facilities in the boroughs of Metropolitan Toronto and has decentralized the crown attorney system in this area, which has the heaviest caseload in Canada. New court facilities were opened in the boroughs of North York, Scarborough and Etobicoke in the spring of this year. This has increased the available court space of the provincial criminal court to a significant degree. I'm pleased to be able to report that the decentralization has worked extremely well and that the caseload burden is being managed effectively.

In addition to these improvements, the ministry is also in a process of planning space and obtaining space for 10 additional courtrooms and related offices in the old Eaton's building at Yonge and College Street. In the provincial court criminal division in Toronto we have recently completed a demonstration project for the disposition of criminal cases within 90 days of their entry into the court system. While we are still working on the analysis of this experiment, preliminary findings indicate that it holds enormous potential for speeding up the criminal court system and making maximum effective use of all the resources at our disposal.

Ten years ago the province took over from the municipal governments direct and sole responsibility for the administration of justice in the courts of Ontario. I have to state once



again that we inherited a system, very traditional and evolutionary in nature, whose procedures and administrative practices were deeply grounded in the legalistic complexities of earlier centuries. As a result, then and now the legal system remains stubbornly resistant to change.

Our legal system was never designed to cope with the new and growing demands placed upon justice by an urban and industrial community with a rapidly expanding population in a world characterized by increasingly fast social, economic and technological change. Of course, change breeds conflict. As a result, a great deal of our time and energy during the past year continued to be directed towards improving the whole process of case-flow management in all levels of our courts.

With the appointment of the new Chief Justice of Ontario, Mr. Justice Howland, at the end of last year, I requested him to establish a judicial advisory council made up of the chief justices of Ontario, the chief judge of the county court, the senior judge of the district of York and the chief judge of the provincial court, a group to which I could submit problems relating to case-flow management in so far as they fell within the judicial responsibility. As a result of this initiative, the Chief Justice has established what he refers to as his "bench-and-bar committee," a group made up of members of the judiciary and members of the profession which meets on a regular basis as well, with a view to improving our procedures in the interests of all the citizens of this province. As a result of this process, I attempt to meet at least once a year, and hopefully it will be twice this year, with all the county law association presidents throughout the province in order to hear their concerns with a view to solving the pressing problems as they relate to the administration of justice in all parts of the province.

The exploding caseloads which have now reached crisis proportions in our courts reflect every aspect of the conflict that characterizes contemporary society. The basic challenge facing my staff and myself is to find new and more effective ways to resolve those conflicts within the framework of the rule of law. If we fail to meet that challenge we face an inevitable drift towards arbitrariness, lawlessness and the destruction of that essential stability which provides the basis for our social structure and our economy. The reforms which we undertake are not merely important; they are imperative.

My ministry, of course, has many functions and responsibilities, but it is primarily a ministry of justice responsible for the twin goals of protecting the liberty and fundamental rights of each citizen and of preserving the social fabric of a complex democratic society. I state that because so often attention is focused on the role of the Ministry of the Attorney General in relation to our responsibility for conducting criminal prosecutions. I remind the members of the committee that we regard our responsibilities as going far beyond that of a prosecuting authority because of our traditional and very important responsibilities relating to the liberty and fundamental rights of each citizen.

Responsible as I am for protecting and strengthening the legal process for the administration of justice in all its aspects, we are constantly made aware of the tension and problems facing this country and the citizens of this province. Some of these problems as they relate to the rule of law have been demonstrated very dramatically by events of the last week or two. Our central concern is with the rule of law, a guiding ideal that has been described as the soul of the modern state and which plays a key role in maintaining the essential fabric of a free, just and democratic social order.

One of the traditional responsibilities of the Attorney General, and a responsibility I take very seriously, is the responsibility for the preservation of civil rights. In recent years, all of us on this committee have been confronted by what appears, on occasion at least, to be the shockingly weak foundation upon which the rights of the individual rest in this country. The complacency with which many Canadians have responded in recent years to the trampling of their basic rights is a sad and a regrettable phenomenon.

A major effort of education is needed to build up widespread support for our basic freedoms. I can say to the members of the committee that this is a theme which I have voiced not just today but frequently in addresses I have given in all parts of the province. I look forward to working with you, Mr. Chairman, and our colleagues in the House, on a continuing basis to enlist public support for the need to take rights seriously and to strengthen the process of justice for all our citizens.

Again I look forward to sharing my views in these areas and many others related to my responsibilities which are so important to the administration of justice.

**Mr. Acting Chairman:** We have just had the opening statement from the Attorney General. I am going to ask Mrs. Campbell, who is the Liberal critic, for her opening statement.

**Mrs. Campbell:** First of all, I would like to congratulate the Attorney General on some of the major steps which he has taken in bringing us forward in the administration of justice.

The family law package has certainly been important and I am watching, as he is, the way in which it will be developed in the course of the next few years.

I regret that, as yet, time has not permitted the Attorney General to fulfill the commitment he made to sit with the opposition critics to review the matter of the philosophy as it pertains to the succession law reform legislation. It is without doubt a fact—and I would suggest the Attorney General himself would probably concede it—that in the family law package we see the development of at least the philosophy that marriage is an economic partnership, but when one reviews the succession law reform legislation, we are back into the old prevailing consideration of a type of a dependant's relief philosophy, notwithstanding the fact that that act itself has disappeared. I trust we may get on with that before too long because it seems to me that it is an important matter for our consideration.

I suppose I may be forgiven if I am just a little bit concerned about some of the statements made by the Attorney General with reference to the administration of justice as it was under the municipal system. Much of what he says is actually very true, but one of the systems we had in Toronto, which we lost when the government took over the administration of justice, was a system in which Toronto, I think, led the world at that point—I can say that very advisedly—in that there was pre-trial counselling in that court. It was lost due to the exigencies of budget when the province took it over.

I recognize it had not been developed to a high standard, I recognize the fact that there was no ability to proceed on a mandatory basis because the legislation was not available, but had that continued, it seemed to me we might have been even further in our conciliation processes than we are today. So I must say one word on behalf of the municipal people who were struggling in this field.

A number of events which have taken place in the past year have convinced me I must make virtue of necessity this morning

and discuss in some detail the role and function of the Attorney General in the province of Ontario.

We start with the concept of the Attorney General. The first point to grasp is that the Attorney General is the chief law officer of the crown and an officer of the public. As former Chief Justice McRuer writes, in his celebrated report on civil rights on page 932: "The Attorney General is the chief law officer of the crown and in that sense is an officer of the public. It is to him that the individual must look for the protection of his rights, whether it be through the enforcement of the criminal law to provide adequate protection of the innocent and ensure as far as possible the just punishment of the guilty, or whether it be as guardian of the interests of the public against legislation that may confer excessive or oppressive powers on tribunals, bodies or individuals."

I would like to stop at this point and just try to indicate wherein my growing concern lies.

[11:00]

This committee—otherwise constituted for the most part I think—sat this summer to discuss an awkward bill whose title is An Act to Prohibit Discrimination in Business Relationships. There is no question in my mind that every person in the House was grappling with a principle; there was no problem about the principle—but rather the means by which to implement that legislation.

While we were in committee it was quite clear that there were obvious problems with it and that there were probably corporations which would not come within its ambit. I refer, of course, to the examples of the Bell Telephone Company and banks. Nevertheless, I viewed with great concern the fact that it was the Attorney General who reintroduced, on notice as an amendment, the provision that the Lieutenant Governor in Council may exempt any person from the provisions of An Act to Prohibit Discrimination in Business Relationships.

It was interesting that in that committee the question was put to the law officer of the crown having carriage of the matter before the committee in a sense, and he stated that we could not put an exemption into the act because that would be discriminatory. That, at least, was his opinion.

To me, it flies against the principles of the Attorney General's function that he could wish to incorporate that amendment into legislation of that kind. That is an example, as it were, of my concerns.

I will continue, and I quote: "As the chief law officer of the crown, the Attorney Gen-

eral performs two main functions. He is the Queen's attorney and as such is responsible for the public as distinct from the private prosecution of offenders; and he is the responsible adviser of the government with respect to legislation. Historically and traditionally in the exercise of these functions the holder of the office must exercise a degree of independence quite different from that required of any other member of the cabinet. Second, the Attorney General is the Queen's attorney and is responsible to the Queen and not to the government.

To quote McRuer at page 934: "As the Queen's attorney, he occupies an office with judicial attributes and in that office is responsible to the Queen and not responsible to the government. He must decide when to prosecute and when to discontinue a prosecution. In making such decisions, he is not under the jurisdiction of the cabinet, nor should such decisions be influenced by political considerations. They are made as the Queen's attorney, not as a member of the government of the day.

"Thirdly, the Attorney General has a duty that transcends government policy in the performance of which he is responsible only to the Legislature. This is a well-established principle and predates Confederation."

I would submit that none of the above-mentioned principles should come as a surprise to the government for they appear verbatim in a publication of the justice policy secretariat entitled, *Justice Policy in Ontario*, 1975. Furthermore the present Attorney General endorsed these principles of impartiality and objectivity at a meeting he was chairing, a delightful meeting I might say, at which the Attorney General of England was present.

In at least four provinces, the Attorney General is defined by statute as being Her Majesty's Attorney General, the official adviser of the Lieutenant Governor and the legal member, as opposed to adviser, of the executive council. This may obtain in other provinces, although I am referring specifically to the legislation of British Columbia, Alberta, Saskatchewan and Manitoba.

In Ontario, which prides itself on being the most progressive province in the country, however, there is no Attorney General's act per se. While the government followed much of Dr. McRuer's learned report, it chose to ignore his central recommendation concerning the office of the Attorney General. At page 954 he writes:

"We think that there is a decided advantage in having an Attorney General act which specifically sets out the functions and duties of the holder of the office. Such a statute

would leave no doubt as to who is responsible for the legal affairs of the province and who is accountable if legislation should be introduced which fails adequately to safeguard civil rights."

At the present time, the Attorney General is the creation of a Department of Justice Act which was revised under part IV of the omnibus government reorganization act. Part IV changes the title to the Ministry of the Attorney General Act, 1972, but in neither instrument is any mention made of the fact that the Attorney General is the Queen's attorney.

The functions of the Attorney General are defined in the act as follows: "The minister

"(a) is the law officer of the executive council;

"(b) shall see that the administration of public affairs is in accordance with the law—" that is the clause which I think is generally accepted;

"(c) shall superintend all matters connected with the administration of justice in Ontario;

"(d) shall perform the duties and have the powers that belong to the Attorney General and Solicitor General of England by law or usage, so far as those duties and powers are applicable to Ontario, and also shall perform the duties and have the powers that, up to the time of the British North America Act, 1867 came into effect, belonged to the offices of the Attorney General and Solicitor General in the provinces of Canada and Upper Canada and which, under the provisions of that act, are within the scope of the powers of the Legislature—" That, too, is common to most legislation.

"(e) shall advise the government upon all matters of law connected with legislative enactments and upon all matters of law referred to him by the government;

"(f) shall advise the government upon all matters of a legislative nature and superintend all government measures of a legislative nature;

"(g) shall advise the heads of the departments and agencies of government upon all matters of law connected with such departments and agencies;

"(h) shall conduct and regulate all litigation for and against the crown or any department or agency of government in respect of any subject within the authority or jurisdiction of the Legislature;

"(i) shall superintend all matters connected with judicial offices;

"(j) shall perform such other functions as are assigned to him by the Legislature or by the Lieutenant Governor in Council."

Unlike the statutes of the four western provinces to which I referred earlier, the



Ontario statute makes the Attorney General the law officer of the executive council and legal adviser to the government. *Prima facie* this provision conflicts with the concept of the Attorney General.

What is more, the situation is even more confused because the Attorney General also has the powers of the Solicitor General of England so far as they are applicable to Ontario. However, the powers and duties of the Solicitor General of England and the present Solicitor General of Ontario are not the same. The powers of the Solicitor General, as I understand it, arose because of the distinction in the bar in Great Britain between two members of the bar, the barristers on the one hand and the solicitors on the other. The police are supervised by the Home Office in the United Kingdom, whereas in Ontario they are supervised by someone who is called a Solicitor General. I would suggest that sooner or later we might change that title so that it is more applicable to the function in this province.

Furthermore, at the present time the Attorney General is also the Solicitor General in our terms. At the time of his appointment, the Leader of the Opposition (Mr. S. Smith) issued a statement expressing his concern that it was inappropriate for one man—I regret that wording; I think he meant one person—to hold both offices. Such was also the view of the government when the Ministry of the Solicitor General was established by statute in 1972. The Solicitor General is primarily responsible for the police and the Attorney General for the administration of justice. It seems to me inappropriate for one man to hold both offices.

Let me return to the Ministry of the Attorney General Act. It seems to me that by being the law officer of the executive council, rather than a legal member of the executive council, there is a danger that the Attorney General is compromising his impartiality and objectivity, which may impair his ability to superintend all matters connected with the administration of justice in Ontario. It's interesting, as the members of the justice committee know, I'm sure, that so important in the experience of England is the impartiality and objectivity of the Attorney General that he does not even have an office in conjunction with other cabinet ministers, but is located elsewhere in the proximity of the Inns of Court.

[11:15]

Why have I dwelt on this? Two events discussed in the House since it resumed on Tuesday cause me concern. The first is the announcement yesterday of a study of so-

called mind-benders. In his statement yesterday the Attorney General stressed the fact that the study was not to be an inquisition. Certainly, in the appointment of Dr. Dan Hill credence is lent to that statement. Nevertheless I have to make this plea, that a study without terms of reference is, in my view at least, capable of being a witch-hunt, notwithstanding the very highest motives of those participating.

Who is being studied? Who is being investigated? Does it not worry the Attorney General, who is responsible for seeing not only that justice is done but is seen to be done, that the people being studied will, according to the statement, receive no notice. There is no provision for the taking of evidence under oath, so we can see that with the best will in the world people may go to discuss matters with Dr. Hill and as a result of those discussions he may conclude that a public inquiry is indicated. In my view, terms of reference in a matter as important as this to the public in this time are terribly vital.

I recognize that there have been allegations. I recognize that there have been problems; but this is not, if I may suggest it, the way in which to deal with the problems.

It's interesting that I received tremendous correspondence from one particular group fearful that "the new religions are under attack." As this group indicates, it is a religion which dates back well into antiquity, although not so well known in Ontario. I think of Christianity itself, which was once a new religion. I have to think of my own particular branch of it, and I really do want to know if my church is under investigation.

I don't think people, in this day and age, under the aegis of the Attorney General of the province of Ontario, should be groping in the dark to understand the parameters of this very important study. It frightens me that this can come from the Attorney General of this province.

**Hon. Mr. McMurtry:** Mr. Chairman, may I just interject?

**Mrs. Campbell:** I didn't interject.

**Hon. Mr. McMurtry:** I have to interrupt because I think you're misinformed.

**Mrs. Campbell:** I read your release.

**Hon. Mr. McMurtry:** There will be terms of reference. Dr. Hill is out of the jurisdiction. We have not chosen to finalize terms of reference until we give Dr. Hill an opportunity to participate. There is no suggestion that there wouldn't be terms of reference. I think it's important, in view of your allegation, that I clarify that matter.

Mrs. Campbell: Was it an allegation? I'm sorry, in the statement there was no indication—

Hon. Mr. McMurtry: The statement itself was silent. I agree on that.

Mrs. Campbell: So I'm not making an allegation—it's silent.

Hon. Mr. McMurtry: No, the allegation is based on—

Mrs. Campbell: I asked in the House, although I am not permitted to ask publicly in a formal question, where the terms of reference were and that was not alluded to.

Hon. Mr. McMurtry: Nobody asked me in the House about it.

Mrs. Campbell: No, during the question period my people ran out before I did, or the question period ran out before I did.

Hon. Mr. McMurtry: I just wanted to assist you there—

Mrs. Campbell: Thank you. Will there be evidence under oath?

Hon. Mr. McMurtry: —Mrs. Campbell, and to indicate that there will be terms of reference. Dr. Hill should be a party to the framing of those terms of reference in my view. I agree with you that it would have been of assistance if I had alluded specifically to that. As to the matters of what under oath or not, I'm quite prepared to discuss that during the course of the estimates if you choose. As I say, I apologize for interrupting but I just wanted to clarify that misunderstanding.

Mrs. Campbell: Thank you, Mr. Attorney General, but nevertheless would it not have seemed better, in the light of the deep concerns of many many people if the matter had been brought forward when it was complete and whole rather than at this point when perhaps there's no service to the community in a statement which is premature?

The second is the case before the Ontario Highway Transport Board. I want to take this just as evidence of my concerns. The Attorney General has stated that a new hearing will take place. With the greatest concern, I have to say that I believe that the Attorney General has missed the point. One of the reasons that I had hoped to have a little longer to prepare my statement is that I was searching diligently for the newspaper articles which came out at the time that there was disclosure of the peculiar circumstances of that particular hearing.

One of the statements that was made, and forgive me that I can't quote it accurately, was, as I recall it, from a counsel who said that "we are all old friends and business associates." That to me in the overall was far

more important than the actual incident itself, in that the incident reflected, or appeared to reflect, a course of conduct which goes beyond that particular situation. It seemed to me again that an Attorney General interested in equal justice and having an obligation to be, might have been concerned about what appeared to be the cosiness of that operation—the buddy system at work—and to ask himself what happens to some new person trying to break into this closed field. That should recommend itself to the Attorney General as a matter to pursue, and not just waived as resolved because a new hearing will take place, very possibly in the same atmosphere and under the same conditions.

It would be interesting to know how the Attorney General arrived at his decision in this matter; whether he simply saw it as an isolated case to be corrected by a new inquiry, or whether perhaps after consultation it might have been deemed that this was appropriate.

Now I come to another aspect which has really bothered me and that is the number of times in the last short period when the sub judice rule has been invoked, not by Mr. Speaker, but by the Attorney General himself.

The first instance to which I would make reference was certain inquiries made by the Liberal Party in an attempt to obtain information from the government regarding certain funding as it applied to Browndale.

There is no doubt that information asked in the past certainly and properly became sub judice after the government departments had stonewalled long enough to prevent access to the information. But some of the information which we asked for was refused by the Minister of Community and Social Services on the basis that he was advised by the Attorney General that the matter was sub judice. One of the interesting things was that that related to a new agreement not in any way before the courts.

It is a fact that some of that information was subsequently given under terms of confidentiality and it has always been my practice that if I receive information on those terms, I honour them or I don't accept the information. I accepted the information.

But what puzzles me is that this sub judice rule has all the appearance of having been invoked to preclude the opposition from asking questions, because at no time did it preclude the minister, at a later time and under the same circumstances, from making public statements on the same matters.

I think we have to have a very real study in this Legislature what in fact is a sub judice rule.

The second example is that of the Can-trakon development on the Niagara Escarpment.

The third example is the government's handling of the interventions of the former Solicitor General. Before I discuss this example, I would like to review the sub judice doctrine as it has come up in the past year or so.

[11:30]

On July 8, 1977, Mr. Speaker Rowe gave the following opinion; this particular opinion was given in the context of a discussion of Hydro contracts. Mr. Speaker stated, "I make the following ruling to the House . . ." You may recall at that time that we were advised that there was a court order which precluded the publication of certain matters. Therefore, of course, the Legislature was bound with the real submission.

"On June 30 last, the member for Brant-Oxford-Norfolk (Mr. Nixon), after putting certain questions to the Premier (Mr. Davis) asked me to take under consideration the sub judice rule and its application concerning questions placed earlier that day.

"The member requested me, and I quote: 'To use your good offices to see that the orders of the court are placed before the House so that we might have your guidance as to whether or not this matter, which involves Ontario Hydro and a decision by the Premier to order a secret inquiry, can or cannot be discussed in this House.'

"May I first say as strongly as I can that I know of no authority by which any court can prevent free discussion in this chamber. Second, I have grave reservations concerning the advisability of the chair becoming involved in a search of court records for orders made concerning the publication of evidence at preliminary hearings. This is not my responsibility.

"I did however, particularly in light of the request made by the member for Brant-Oxford-Norfolk, address a letter to the Premier asking him to provide me with a copy of the order to which he referred earlier in the day, so that I might be better informed with respect to a possible prejudicing of a criminal trial. I will speak further of this in a moment.

"The Attorney General, at the request of the Premier, provided me with information that there are criminal charges being heard in the courts which have to do with the awarding of contracts relating to Ontario Hydro, the Madawaska dam and the Bruce

generating station. In my view this information should be communicated to the House by the minister and not through the Speaker. I have already so informed the Attorney General. The minister may of course answer questions or decline to answer questions if he thinks this may be prejudicial to a fair trial of parties before the court.

"The central issue lies in the application of the sub judice rule, which is standing order 16(a)7(i), and I quote: 'In debate a member will be called to order by the Speaker, if he refers to any matter that is pending in a court or before a judge for judicial determination.'"

"On June 30 and on subsequent days questions were posed, the answers to which indicated that there was an order of accord barring publication of details of a criminal trial. I was placed in the difficult position of having no other information before me, and it was in this light that I cautioned the House concerning the sub judice convention. I have now had an opportunity to reflect on this and to study the precedents which are interesting and I hope will be helpful to the House.

"May I repeat what I said earlier? No court has the ability to prevent this House from discussing any matter. The freedom of speech which this House claims as a right is not at issue because of the court order. The House, however, has imposed restrictions on itself and one of these restrictions is that great care is exercised in discussing matters before the courts so that statements here do not deny justice to the parties involved in the courts.

"Standing order 16(a) places a duty on the Speaker to exercise discretion over debate in matters before the courts. Earlier this year, the House of Commons of Canada undertook a substantial examination of the sub judice convention in the Canadian context. The report, which was presented on April 29, has been of great assistance to me and I commend it to members. Following a lengthy recitation of precedents from Canada, the United Kingdom and Australia, the committee notes that the Parliament of Canada has been more flexible in the application of the sub judice convention than other countries. I wish to quote the final sections of that report:

"In the view of your committee, the justification for the convention has not been established beyond all doubt. Although it would not go so far as to recommend that it be totally abolished, your committee believes that any modification of the practice should be in the direction of greater flexibility rather than stricter application.



"It is not possible to determine whether or to what extent comments made in Parliament might affect the outcome of a trial or an inquiry. The chair is seldom in possession of the necessary information to determine whether or not prejudicial effect is likely. It follows that the House should not be unduly fettered by a convention, the basis of which is uncertain.

"On no account should the convention, which has been applied infrequently in years past"—I'd say that statement could no longer apply—"come to be regarded as a fixed and binding rule. It is not reasonable, for example, that Parliament should be any more limited in its debates concerning judicial proceedings than is the press in reporting such proceedings.

"In section 23: 'Your committee has given consideration to the role of the Speaker in the application of the convention. It is submitted that while there can be no substitute for the discretion of the chair in the last resort, all members of the House should share in the responsibility of exercising restraint when it seems called for. A member who feels that there could be a risk of causing prejudice in referring to a particular case or inquiry should refrain from raising the matter. Additionally, a member who calls for the suppression of discussion on a matter on grounds of sub judice should be obliged to demonstrate to the satisfaction of the chair that he has reasonable grounds for fearing that prejudice might result.

"Should a question to a minister touch upon a matter of sub judice, it is likely that the minister involved will have more information concerning the matter than the Speaker. The minister might be better able to judge whether answering the question might cause prejudice. In such a situation the minister could refuse to answer the question on these grounds, bearing in mind that refusal to answer a question is his prerogative in any event.

"It is the view of your committee that the responsibility of the chair during question period should be minimal as regards the sub judice convention and that the responsibility should principally rest upon the member who asked the question and the member to whom it is addressed."

"Section 24 states: 'Your committee is of the opinion that precise regulations concerning the application of the sub judice convention cannot be evolved and that it would be unwise to attempt to do so. Your committee recommends that the Speaker should remain the final arbiter in the matter, that he should retain the authority to prevent dis-

cussion of matters in the House of sub judice, but that he should only exercise this discretion in exceptional cases where it is clear to him that to do otherwise could be harmful to specific individuals.

"In exercising this discretion, your committee recommends that when there is doubt in the mind of the chair, a presumption should exist in favour of allowing debate and against the application of the convention. In the view of your committee, prejudice is most likely to occur in respect of criminal cases and civil cases of defamation where juries are involved."

"I can see no reason why similar principles ought not to guide the members of this House."

I may say that I have had ongoing discussions with the Attorney General and, in December 1977, the Attorney General himself sent me an outline of the doctrine as he perceived it. It was most helpful.

He opens by explaining that the term "sub judice" is only referred to in a minimum number of law dictionaries. In Black's Law Dictionary it is defined as "under or before a judge of a court; under a judicial consideration." He then sets out rule 16, and I will not go into that.

"In England, the rule preventing reference in the House of Commons to matters considered sub judice"—I'm reading from a letter to me under date of December 22, 1977; I believe this to be the first sub judice statement; I had a second one which was somewhat different later.

[11:45]

"In England the rule preventing reference in the House of Commons to matters considered sub judice developed during the last century from various precedents and rulings from the Speaker's chair; the earliest being in 1844."

Let me say the examples given are examples to which I would, of course, subscribe. They are examples where, for example, in 1844, in the Queen's speech—and this is of interest to the member for Lakeshore (Mr. Lawlor)—"I forebear from observation on events in Ireland in respect of which proceedings are pending before the proper legal tribunal."

There is another case where apparently a member was arrested, convicted, and sentenced for aiding a criminal conspiracy. Some member in the House wanted to stand up and ask questions about that matter while it was before the courts. I don't think anyone has a problem with that.

But in 1961 certain questions were ruled out of order on sub judice grounds in a case where a writ of libel had been issued. It is

interesting that this was the first recorded instance of the rule being applied to a civil action, which inevitably meant that the House was debarred from discussing the point at issue "for a lengthy period." Dissatisfaction with this state of affairs led to the entire scope of sub judice rule being referred to the select committee on procedure.

I have given you—in part at least—I don't think I am being unfair, I think I would be covering the same ground to reread what was said there.

**Mr. Renwick:** Then there was the Melcher's case.

**Mrs. Campbell:** Yes, there was. There was also the case in 1973 involving thalidomide children, an action by the parents of such children against a company known as Distillers. Some actions were settled and some were not, and the time was dragging on.

The Times newspaper published an article on the subject, and Distillers complained to the Attorney General. He asked for information—I am going to skip some of this, I don't think I am leaving out anything that I should bring forward. In any event, the Attorney General issued a writ, claiming an injunction restraining the defendant, the proprietors of the Sunday Times, from publishing the article on the grounds that it constituted contempt.

During this time a debate took place in the House of Commons on the plight of the thalidomide children, and in speeches the allegations were made that Distillers were gravely at fault and had not faced up to their moral responsibility. These speeches were reported in the newspaper.

As a result of that the court of first instance granted the Attorney General his injunction, and the Court of Appeal dismissed the injunction. In doing so Lord Denning stated in part: "It is desirable that the convention of Parliament, as to matters sub judice, should as far as possible be the same as the law administered in the courts." And he goes on to deal with the objects of each. The view was concurred in by Lord Justice Scarman. This decision was appealed to the House of Lords and reversed by that House.

Again, lengthy reasons did not specifically comment on the observation of the learned justice below, in relation to parliamentary privilege or parliamentary comment on the same subject. However, Lord Cross, on page 86, stated as follows: "That the Attorney General was not content to rest his case on the ground that the projected article prejudiced one of the issues in the pending action. He found his argument on the passage in the judgement of Mr. Justice Buckley in the Vine Products case, which is set out

in the speech of my noble and learned friend"—words rolling off the mouth of the member for Lakeshore no doubt—"Lord Reid, and submitted that when legal proceedings are pending, any comment which is likely to influence one or other of the parties in the conduct of the proceedings, is a contempt of court." And that, of course, is a doctrine to which I presume we all subscribe.

There is more to this and I am not going to take time to read it all in. Since it is the Attorney General's letter, he will undoubtedly quarrel with me if he thinks I have been unfair in what I have chosen to read. I would be prepared to read the whole thing except for the interests of time.

**Hon. Mr. McMurtry:** I'd only make one suggestion since you—

**Mrs. Campbell:** I'm not inviting you to, no. If you will wait till I conclude—

**Hon. Mr. McMurtry:** That is, you thought it would be inappropriate to read rule 16 of our own House.

**Mrs. Campbell:** I'm sorry, I did read it, did I not?

**Hon. Mr. McMurtry:** I don't think you did and I just want to make the point.

**Mrs. Campbell:** If I didn't, I am sorry.

**Hon. Mr. McMurtry:** I didn't make the rule, and if one looks at the very broadness of the rule, and I think the members should recognize the fact that this rule is very wide in its terms, any opinion that has been given by the law officers of the Crown is in relation to a rule which they did not create.

**Mrs. Campbell:** I'm sorry, in reading from Mr. Speaker Rowe, the central issue lies in the application of the sub judice rule which is standing orders 16(a)(7)(i), and I quote: "In debate, a member will be called to order by the Speaker if he refers to any matter that is pending in a court, or before a judge for judicial determination."

**Hon. Mr. McMurtry:** Yes, and it continues, "or . . .

**Mrs. Campbell:** I'm sorry, I was quoting from Speaker Rowe. If I have left anything out I'm sorry.

**Hon. Mr. McMurtry:** It goes on, "or that is before any quasi-judicial, administrative or investigative body constituted by the House," et cetera.

**Mrs. Campbell:** That's right.

**Hon. Mr. McMurtry:** And the only point I was making, and perhaps you had read that before—

**Mrs. Campbell:** I did.

**Hon. Mr. McMurtry:** —in the first part, and I'm sorry I missed that.

**Mrs. Campbell:** I did indeed.

**Hon. Mr. McMurtry:** Because as you see, it's very broad in terms. It doesn't talk about prejudice, it just simply states that a matter that is pending in the court—

**Mrs. Campbell:** Or before the court for judicial adjudication, I think.

**Hon. Mr. McMurtry:** Determination, yes.

**Mrs. Campbell:** I'm not doubting that, and I'm sorry I did read it. We have the statement made on September 13, 1978, by the Attorney General himself in the House. Although names are mentioned in the statement, as I recall, I see no reason for me to mention any names. It is with reference to a certain report which had been received by the Attorney General with reference to matters pertaining to conduct of a former Solicitor General and Minister of Justice. In so far as I know, within the terms of the rules none of that is before any court for adjudication. To clarify the matter, at that point in time the justice committee had been wrestling with the problem of exercising its responsibility in the field of justice in trying to cope with getting some determination of matters which were of importance in the view of that committee.

At that point I raised in a press release a series of questions to which I wished answers. I have reviewed those questions, and I would ask the Attorney General to review them and to advise me what of those matters are before any court and what are there for any judicial determination?

The reason that I'm raising these issues is I recognize the very real concern to protect anyone who is before the court lest any trial be prejudiced. But with the greatest respect, what we have seen here is the application of a sub judice rule. I've given the Brownale situation and now I give this one. Is there anywhere in any law that says that the sub judice rule only applies to the opposition?

I think in the circumstances of the matters relating to a former Solicitor General we had public discussion by the Attorney General, albeit—and I must commend him for it—that he confined himself to matters which I think quite properly ought to have been discussed and still should be. We had the Solicitor General and the Premier of this province apparently not advised as to any sub judice rule and making all sorts of public statements. I think this very procedure goes deeply to the heart of the matter of the rights and the responsibilities of

members of the Legislature, and that the Attorney General's role vis-à-vis the Legislature should be one of ensuring, if you like, that all members are treated equally.

[12:00]

When we were discussing the matter in this committee the member for London—I am sorry, he is now a cabinet minister; I get my Londons confused—the member for London South (Mr. Walker) agreed with me on this particular point, if one reads the Hansard report. What he said was simply, of course, in these instances two wrongs don't make a right. It is not the type of statement that should flow if one is dealing with the Attorney General in his role as the Queen's attorney in Ontario and as to matters of his responsibilities to members of the Legislature and to the public at large.

It is always open to lawyers to disagree. So, of course, it would not be unusual for me to have very deep disagreement with the Attorney General on the matters which I require to be resolved as they relate to the conduct of a former Solicitor General and to the conduct of the Attorney General in his handling of the matter. But I don't think it is open to any lawyer to suggest that the sub judice rule should be invoked as it has been in this particular case.

I have one more comment which I would like to make on the role of the Attorney General and the way in which I perceive it to be eroded, certainly by practices or policies in the House and in this government. I will refer briefly—for which you will be very grateful, no doubt—to the role of the secretariat vis-à-vis the Attorney General. If one analyses the evidence provided by the secretariat itself, one discovers that the policy of the present government of Ontario to co-ordinate justice policy through a provincial secretariat seriously misrepresents the role of the Attorney General within the cabinet.

While the unique nature of the office of the Attorney General is conceded, the necessary implications of this special stature are overlooked. A simple definition of the role of the Attorney General as provided by the Justice secretariat itself reveals that to subordinate the Attorney General to a co-ordinating secretariat is to create a serious anomaly within the administration of justice in Ontario.

**Mr. Renwick:** I'm sorry. Did you say "subordinate"?

**Mrs. Campbell:** Yes.

**Mr. MacBeth:** If you think this Attorney General is subordinated by the Justice secretariat, I can assure you otherwise.



**Mrs. Campbell:** I am not privy to the cabinet discussions. I would suspect that probably that which appears on paper is not always a fact, and I would suspect that it is true probably of every line ministry which by the structure of government is subordinated to a secretariat probably is in the same position. I am merely referring to that which is formalized and the implications of it.

I referred to the British Columbia act, but I did not go into any detail about it. What I was referring to is this: In the preamble to that act, it says, and I quote: "There shall be a department of the civil service of British Columbia to be called the Department of the Attorney General over which the Attorney General of British Columbia, for the time being appointed by the Lieutenant Governor by commission under the great seal, shall preside; and the Attorney General is ex officio Her Majesty's Attorney General in and for the province and shall hold office during her pleasure, and has the management and direction of the department."

Under "duties", unlike those which I read into the record under our legislation, he is the official legal adviser of the Lieutenant Governor and the legal member of the executive council.

These matters should be clarified. I would hope that the justice committee, as it proceeds with its studies, would refer to that legislation with a view to encouraging the Attorney General in his very peculiar and vital role, to look at the legislation with a view to clarifying his function in the province so that there can be no misapprehension in the future as to what that role ought to be.

**Mr. Acting Chairman:** Thank you, Mrs. Campbell.

It's 12:10. We turn now to Mr. Lawlor, the NDP critic. Did you want to go ahead now, Mr. Lawlor? We thought we would break around 12:30; I don't want to pin you down or ask you for an opening statement in two parts. If you feel constrained, we can put it off until tomorrow.

**Mr. Lawlor:** I'll probably do it in three parts, Mr. Chairman.

**Mr. Acting Chairman:** You have the floor, Mr. Lawlor.

**Mr. Lawlor:** I may as well get started.

Initially, I want the Attorney General to know that I sympathize to a very considerable extent with his present role and will give whatever assistance is possible to forward that.

In the course of these estimates we will come to what you are doing to grapple with the caseload and what recommendations we

may be able to make to assist in that. The caseload is the single most important and critical matter before us. It has worsened, not in all the courts, but in echelon after echelon of the court system.

I'll mention, for instance, in the county court structure on summary conviction offences, judges in the county of York set up a task force and sat for weeks on end and cleared out about 4,500 cases. While they were sitting another 4,500 cases came in in the meantime. As a matter of fact, they ended up 16 in arrears over against the continuing backlog. So the situation today is worse than it was before, and precisely in that area as to summary conviction offences, what you intend to do would most interest me.

I always enjoy reading, in the Gazette of the Law Society, the end of the book. It always contains a few jokes, or usually does, and to lighten the pressures of what is to come I would like to refer to a few of them.

"There are three types of lawyers, said Robert Smith Surtees, in plain or ringlets: able, unable and lamentable. Oliver Wendell Holmes, in turn, divided able lawyers into three divisions: kitchen knives, razors and stings." That's in the Holmes-Laski letters. Isn't it curious that the kitchen knives, razors and stings seem to be peculiarly appropriate to our profession?

In another volume: "There is also a third point which Mr. Norman Birkett said was difficult to express in words but which as he never made me understand what it was, I cannot deal with it." Sometimes I feel that way. I thought the joke has some relevance. "If I'm ever asked whether I have arrived at the meaning of the words which Parliament intended I'd say, frankly, I have not the faintest idea."

On the psychological thing, and the setting up of Dan Hill in an inquiry in order to determine whether or not we should have an inquiry, it was an adroit move on the part of the government. I suppose you had committed yourselves pretty deeply to doing something in this nebulous area and, therefore, were not much disposed to back down. Governments don't generally have that grace. Therefore, when I heard this morning that there were terms of reference forthcoming, I gave some credence to that. I will say bluntly that I can't imagine what the drafting of those terms of reference might be. That will be a ticklish and even devilish job.

What has happened here is that they've turned away from the Minister of Health to the wrong minister, to the Minister of Justice, whose fundamental role was expressed

this morning, or one of whose roles, lies in the area of civil liberties and the self-determination of people having to do with either their psychic or religious state. I think it should be recognized that all religions have pathological elements worked into them. St. Simon Stylites wasn't a model of normality, you know, sitting on top of his pillar. He got higher as the years went on by accretions of his own dung. If you study the saints in my church, you have some misgivings here and there as to what the motivations might have been in odd cases.

[12:15]

**Mr. MacBeth:** I thought you were one of them, Pat.

**Mr. Lawlor:** I don't want to arouse the whole religious community any more than you do with these comments, but deep senses of alienation are often bred in religious beliefs' turning away from the social whole—a committal to some nebulous and remote paradise et cetera, an abnegation of a fulfilling role right now—although religions, particularly the more progressive ones, have come to that stern realization and recognize that it's here and now that eternity is attained if it's going to be attained at all.

The thing that Karl Marx found, and which turned him against religion completely, was the fact that they were teaching people to accept their lot just as it was, with patience and abnegation, or to appeal to some other world than this as the means whereby that salvation would be reached. That was a root cause of the fundamental atheism, not just in Marx, but in any number of other people, particularly in Nietzsche.

Earlier on, you worked with Mr. Timbrell in the area of psychology and the psychologists. The repercussions were there and resounded—quite rightly so, in my opinion—that this was not quite the way to handle the matter, by giving all power in the area of these peculiar processes of ours, of everyone's, to the psychologists, of whom I have a certain rather profound distrust also. If it were documented, the amount of harm done by legitimate, so-called, psychological functions, then indeed the restrictions that would have to be written into the matter and the range of qualification, whatever that means, would be most restrictive. The number of psychiatrists and psychologists would be cut in half. That's what we have to contend with in this particular area.

What I thought you might have done was to give us some grounding, to level with us—the House and the public—with respect to what was the grievance or the evil that you were particularly after. Was it, for in-

stance, that certain sects and religious bodies utilize and import drugs and act as, to some degree, a cover for drug trafficking? I think that may be so. I have no evidence of that, and I wouldn't want you to try to produce such evidence. That would be for an inquiry. But at least I would expect you to say that that is the fundament upon which you rely; that that's one of the points, that this is going on and we're just going to have to investigate it. In other words, you're zeroing in on an area of investigation.

Is it with respect to that problem that has exercised us so much in past hearings here, having to do with the asportation of children? I use the big word because it covers a lot of ground. Kidnapping is not the problem, but where children are seduced, induced or brought into these various sects on very fraudulent and very questionable grounds indeed and their minds warped.

The mind-warping on the other side, as I saw it—and it seems to have fairly well died out—is the deprogramming. Some of those deprogramers were nuts.

**Mrs. Campbell:** Have you had one?

**Mr. Lawlor:** I won't mention any names, but I thought they were worse than the disease that they were seeking to cure. I think some of them have been prosecuted, particularly in the States. Therefore, it seems, at least in the press, that this has not been a major problem. Is it? Is it in the area of blackmail? These psychic groups, the progenies of Essalen and 50 or maybe 1,000 other groups are the new phenomenon in the world, the business of psychic controls and mitigations. We live in a profoundly neurotic civilization. This is proliferating all over the place, and it did some more during the '60s. It was more noticed in the '60s than it is today.

These groups can't conduct themselves without giving confidential advice. It is a thing we wouldn't normally tell another human being. But it is the very thing that is most bothering us. The things that most bother us we don't even know about ourselves. Probably most of us die without being aware of it. The only difficulty about it is everyone else around knows about it except you.

In any event, having made these disclosures, it is a very easy thing to blackmail the individual involved. Is that part of the problem? Do the provincial police have instances of that? Without going into detail, it would be nice to know.

I heard of one instance where senior civil servants in foreign affairs and in defence, attending such groups, because what was

bothering them at the time and causing their nervous dislocations was precisely their job, happened to mention to the others matters of secrecy. Is that part of the problem? Have you instances of that? That kind of thing has come to my ears. I say that if the problem is the stealing or seduction of children, dissemination of drugs, mind control, bribery, blackmail, forgery, harassment—let's pause on harassment. It is mooted that a certain sect utilizes this particular device with respect to people who aren't in overwhelming agreement with them. I would think that watching and besetting probably is involved in any event, it is profoundly antisocial.

For that reason, it has to be in contemporary civilization, with this rising new phenomenon, subject to some kind of government cognizance. If the feds won't do it, then I suppose we have some obligation for our own citizens to take some action, but I will come to that in a moment.

Then there are forgeries, harassment, frauds and ripoffs. I don't quite know what you propose to do about the ripoffs. I have no doubt they occur. The amounts of money that some of the groups require to perform very aberrating functions are appalling. We hear about them—bear-pits and things of that kind—but I think it is somewhat as true about certain exercise clubs where you run around the track.

Point is what are the grounds? Do your terms of reference intend to set those forth with some deliberation so that you can confine the thing? I mean the exercise of St. Ignatius Loyola very well could be stigmatized as producing certain weird effects on human beings, both beneficial and otherwise. The practice of meditation and Zen Buddhism, which is fairly widespread, can bring about hallucinatory states and trance-like gestures—even in the Ontario Legislature if anyone has got the effrontery to practise it—or even the willpower.

Point number two is what in blazes do you think you really can do about it?

All these heads that I have mentioned are Criminal Code heads. It seems to me that you are up against the problem of using possibly a subterfuge of pretending that you can have some efficacy in an area in which, by constitution you are excluded, and really can't be very effective. Therefore, expending public funds—

**Mr. Renwick:** That is the genius of this Attorney General. He is always engaged in a field where he has no jurisdiction.

**Mr. Lawlor:** When it suits him.

**Mrs. Campbell:** Sometimes he thinks he has, that is the difficulty.

**Mr. Lawlor:** We all remember Judy, don't we? There was very costly violence in the media. I think violence in the media is a far more concrete issue that you can pin down and the psychology on it coming from a diversity of sources, much of which was quoted in her report, as to what child development and maturation consists in, and the stages that people go through, and how it is affected by external influences such as the depiction of violence in an affirmative way, what effects this has upon the human being.

But in a vast number of other areas, it is most questionable that we can pin that down.

Therefore, my whole attitude from the very beginning, and I was in touch with Timbrell about it, was at least go easy.

The psychology act, for what I saw of the draft—don't do it at all, for heaven's sake. That is more repressive and coercive and mind-boggling than the boggles.

Now you are getting in on the act. If it is legitimized in the way that I have indicated, then all right, maybe. But let's see those terms of reference. Then secondly, just how far are you prepared to proceed, having got a little more information? I hope you are a little more open with this than you have been up to now. What do you think your effectiveness might be?

I would like to know that in reply, just what you think you can do within the term of the Child Welfare Act or the Child Protection Act or the Mental Health Act, or whatever statute—there may be others. I don't think they are designed for that purpose. I don't think their range is that great. I think they have a distinct gravamen that you can't fit, as I understand your intent, into any of those parameters at all.

So be it on that point.

I think I will break off, if I may, **Mr. Chairman.** I want to go into court backlogs, not in any depth—just in a survey.

**Mr. Acting Chairman:** I am sure we all look forward to part two, **Mr. Lawlor.**

We have been asked regarding an instant Hansard for our 2 p.m. sitting. Hansard wasn't advised of this sitting and we have to have an order from this committee. Unless there are any objections, I so order.

**Hon. Mr. McMurtry:** A 2 p.m. sitting when?

**Mr. Acting Chairman:** This afternoon.

**Mrs. Campbell:** It is not with you. It is simply to try to clarify with—

**Mr. Acting Chairman:** We are meeting with **Mr. Drea.**



Hon. Mr. McMurtry: I see.

Mr. M. N. Davison: I think it is imperative that we have that on Hansard. I would concur with your order.

Mrs. Campbell: It should be in Hansard because the commitments that were made by the former minister are in Hansard and we should have those confirmed.

Mr. Acting Chairman: If the committee is in agreement, then so ordered. We meet at 2 p.m. this afternoon.

Mrs. Campbell: Where?

Mr. Acting Chairman: In the same room. The committee stands adjourned.

The committee recessed at 12:30 p.m.

## APPENDIX

### RESPONSES FROM MINISTRY OF CORRECTIONAL SERVICES

The following written responses have been provided to questions raised by Mr. J. Bradley (St. Catharines) and Mr. E. Ziemba (High Park-Swansea) during consideration of estimates of the Ministry of Correctional Services in June 1978.

#### STAFF DISCIPLINE RE SHAPIRO REPORT

"I therefore assume the minister will be discussing the Shapiro report and the discipline that took place with regard to certain of the officers in the Don Jail."

Response by the ministry:

Summary of discipline awarded: 20 staff disciplined altogether; three dismissed; nine suspended without pay—one staff for 20 days, two staff for five days, six staff for 20 days.

Summary of present status of disciplinary awards: 20 staff disciplined; nine no grievance; 11 grievances in process including those which are currently before the grievance boards.

#### STAFF TRAINING RE OMBUDSMAN'S REPORT

"... elaborate on the degree of progress you think you have made as regards inadequate staff training, insufficient budget and staff shortages."

Response by the ministry:

The first aspect of the question related to recommendation 23, which stated: "That the ministry take a very strong position with respect to its future budgets so as to stress the priority it places on staff training and development."

The preamble to this recommendation is at page 423. It runs as follows:

"There are three major problems which have impeded staff training and development. First, senior ministry officials feel that not enough money has been spent on staff training and development in the context of all ministry programs. As a result, and despite recent studies and changes, they feel that this area has suffered.

"During the fiscal year 1975-76, the staff training and development branch was allotted \$1.2 million and a staff of 24 to train approximately 5,500 employees. Senior ministry officials contended that there was a need for a much larger budget. They pointed out that training facilities are inadequate, there is no ongoing assessment made of the officers who receive the training, there are insufficient funds to bring resource people to staff training programs and there is an absence of research and follow-up to determine the effectiveness of the training and development programs. (Of course, this \$1.2 million does not include day-to-day institutional costs involved in ongoing training programs.)"

The 1978-79 staff training and development budget stands at \$1,228.7 as opposed to \$1,014.4 in 1977-78. There has, therefore, been an increase of \$214.3. Additionally, the branch is no longer accountable for the native scholarship program (\$53,000) and no longer has responsibility for the juvenile division training (\$167,000). In reality then, the ST&D budget has been increased by \$434,300, although this, of course, has been eroded by inflation.

It is also fair to say that, as a result of the zero base budget process, the branch is directing its financial resources into the high priority areas identified by the Ombudsman. Thus, there is a better allocation of the available resources.

This is not to say that the ST&D budget is completely satisfactory. The most important gaps that remain to be filled are an increase in the salaries budget to permit the hiring of additional staff trainers and the

creation of a ST&D pool to pay for relief staff to cover institutional staff attending training programs. This pool is estimated to involve the equivalent of 48 man-years, or approximately \$600,000.

With regard to the other recommendations of the Ombudsman:

The basic orientation and training program for Correctional Officers 1 and 2 has been revised and is in the process of being implemented.

All but three institutions (Vanier Centre, Burtch CC/ATC and Rideau CC/ATC) with over 100 staff have full-time training officers attached to the institution, with the majority being classified at the Correctional Officer 4 or 5 level. These three institutions and all other jails and detention centres have a staff member who is responsible on a part-time basis for staff training. Again, the majority of these are classified at the CO 4, CO 5, or assistant superintendent level.

Regional staff trainers are spending a growing proportion of their time visiting institutions which do not have full-time training officers on their complement.

Increased emphasis is being placed on ongoing refresher training for correctional officers. This coming year, provision is being made to offer one week of refresher training to approximately 200 correctional officers. This represents a cost of about \$30,000 for the training and about \$80,000 in relief staff time.

All of the above measures related to staff training have been taken without requesting additional resources from Management Board. This has been done at the expense of other ministry activities. However, we see staff training as a high priority in improving the effectiveness of the correctional system.

#### ARTICLE ON DEINSTITUTIONALIZATION

"I want to get a comment out of you later . . . on the statement that appeared in OPSEU NEWS."

Response by the ministry:

The Ontario Ministry of Correctional Services has been a forerunner in progressive thinking in terms of servicing the needs of the community by providing workable programs to advance the rehabilitation of the offender.

Building institutions as an answer to an increasing offender population is a costly venture, both in dollars and in human expenditures. With numerous buildings in which to incarcerate persons, the tendency to look for alternate solutions is absent and

the institutionalization of a great number of individuals is often the result. The institutionalization of the offender should be the last resort and, if applied, its duration should be kept to the minimum which community and individual safety and adequate deterrence and sanction permit. Every effort should be made to have the offender supervised in a community environment which resembles that to which he will eventually be released. To attempt to fabricate a society within walls is a monumental task. However, it is recognized as a need for those inmates requiring constant and close supervision.

It is the intention of this ministry to provide the community with a service which would return the offender to the community as a contributing and responsible citizen. Our philosophy is that conviction and a loss of freedom is enough in terms of punishment of the offender; from this premise we have to decide on the type of security necessary to protect the public. We feel that for the majority of cases, existing programs of supervision of the offender in the community, such as temporary absence for work and education, community work programs, probation and parole and community resource centres are the best answers.

The rehabilitation of the offender is a community responsibility and tax dollars are provided to develop programs which will ultimately benefit the community as well as the offender. Whether these programs consist of building and maintaining institutions, or looking toward the community, is a decision which must be made on the basis of what is the most efficient and productive means possible to gain the end that is the successful reintegration of the offender into society.

#### STAFFING AT VANIER

" . . . I want to discuss the staffing at Vanier, and the letter you received from Mrs. Elizabeth Grove-White . . . concerning reliance on casual or contract social workers and the need for more permanent staff."

Response by the ministry:

The staffing formula referred to by the Elizabeth Fry Society is a staffing formula developed by the Ministry of Correctional Services, personnel branch and the program evaluation branch, to determine the staffing level for correctional officers. It is based on a study of posts to be covered on each of the three shifts and subsequent calculations of vacation, sick leave and lieu day relief required. As a result of this study, the correctional staff at Vanier Centre was increased from 71 to 73 general duty officers. This in-

crease in staff provided better coverage and reduced the amount of overtime and unclassified (part-time) staff utilized at Vanier for the correctional population.

This increase in staffing levels occurred despite a reduction in the inmate population. At the present time there are approximately 81 inmates and 73 correctional officers. In 1975 there were 71 correctional staff responsible for over 120 inmates. Overall the Vanier institutional complement is 122 compared to 1975, when the complement was 118. Again this indicates an increase in staffing levels despite decreasing counts.

In the social services area, there were five staff; four social workers and one psychologist. At the present time the social services area indicates a staffing level of five; one psychologist, and four social workers. At the present time, however, there are two vacancies. One vacancy is for the chief social worker, who has been seconded for a period of one year to work with the federal government, in the justice consultation area. This secondment in effect is a leave of absence and this position must be held vacant until he has returned in one year's time. As a result, we are unable to fill this on a full-time basis and it has been necessary to utilize unclassified help. The other vacancy for social worker is presently unfilled despite offers to redundant social workers, both at Glendale and the Toronto Jail, of employment at Vanier. The present staffing freeze does not permit us to fill this job at the present time, however, it is anticipated that once the staffing freeze has lifted, recruitment will commence.

#### FIRE PREVENTION TRAINING

"... will include fire training for correctional officers . . . I would like to know what training takes place."

Response by the ministry:

During the first five days of employment, the new correctional officer is shown the location of fire equipment within the institution and the location of the alarms.

During basic training, which occurs within the first six weeks of employment, the new correctional officer receives 1¾ hours of training on such subjects as: fire prevention and control, the classification of fires, fire fighting equipment and its use, the MSA air mask and resuscitation procedures. Much of this training is conducted with the assistance of local fire departments. Please note that the ministry has just issued a sound and slide presentation on the MSA air mask to assist

local trainers with refresher training on this subject.

During the on-the-job phase of training the institutional training officer, often with assistance from the local fire departments, will teach at the particular institution the application of the fire prevention training taught during basic training. Additionally, institutions also conduct practice fire drills and the testing of fire alarm units which are of course other forms of fire prevention training.

#### FUTURE INSTITUTIONAL POPULATIONS

"I would also like to know how you are planning for declining enrolment . . ."

Response by the ministry:

Projections for institutional bed space requirements to the year 1986 have recently been completed. There is no special significance to the year 1986; however, it results in an approximate 10 year planning timeframe.

Ministry projections start with the Ministry of Treasury Economics and Intergovernmental Affairs projections of the numbers of people in Ontario, in various age groups and geographical locations.

Our projections use four age groupings. Sixteen and 17-year-olds account for approximately 10 per cent of institutional populations; 18 through 24-year-olds account for approximately 45 per cent; 25 through 35-year-olds account for approximately 25 per cent; and those of ages 36 and higher account for the remaining 20 per cent.

Coincidentally, in the general population, there are proportionately more older and fewer younger people than in our institutions. Of the total number of adults in Ontario, approximately five per cent are 16 or 17; approximately 20 per cent are 18 through 24; approximately 25 per cent are 25 through 35; and approximately one-half are 36 or older.

TEIA projections from 1975 through 1986 anticipate a 14 per cent reduction in the number of 16 and 17-year-olds in the province; a nine per cent increase in the number of 18 through 24-year-olds; a 33 per cent increase in the 25 through 35 age group; and a 26 per cent increase in the 36 or older group.

When the TEIA estimates are weighted in terms of proportionate representation of various age groups among our inmate population, the result is a projected increase in institutional populations of approximately 1.7 per cent per annum through the year 1986.



We are assuming no change in the number of charges laid by the police, or in the number of convictions by various courts, for every 1,000 adults in the province. This is done, because recent trends indicate no change in the per capita rate of charges or convictions. In other words "crime rates" are levelling off.

The previously stated 1.7 per cent projected annual institutional population increase will be reduced by various policy and legislative actions which are presently being assessed. Some examples include greater use of community service orders, increased eligibility for remission among those with relatively short sentences, greater utilization of community resource centres, the anticipated impact of the expanded Ontario Board of Parole and the probable impact on this ministry of the Provincial Offences Act.

When all of these policy and legislative changes have been detailed, it is not unlikely that the final projection will be one of no growth in institutional bed space requirements, when expressed in aggregate terms for the entire province.

This does not necessarily mean that there will be no further institutional construction. Some institutions will have to be replaced by new facilities having the same inmate capacity, simply because they are inadequate and beyond renovation. In other specific areas of the province, additional bed spaces will have to be provided because the present jail or detention centre capacity is not in line with the projected population increase in that locality.

#### AMENDED MENTAL HEALTH ACT

"I also wonder whether you feel the proposed changes to the Mental Health Act will affect your ministry in any way at all."

Response by the ministry:

We agree with and support the intent of this new bill as it relates to amending the Mental Health Act. Particularly, we like the increased protection for the individual as it relates to his human rights, property and confidentiality. We feel that there are certain changes which have more significance for us as a ministry and for this reason we shall try to highlight them and comment upon them in the following material.

One of the first major changes which this new bill suggests is re-enacting section 8 of the act to change the grounds for admission from "mental disorder of a nature or degree so as to require hospitalization in the interest of his/her own safety or the safety of others" to "mental disorder of a nature or quality

that likely will result in bodily harm to another person or imminent and serious physical impairment of the person." Also, the authority to convey a person to a psychiatric facility is now set out as the authority of the psychiatric facility to now detain the person and to restrain, observe and examine him/her. Although we feel that these two changes are very significant, as a ministry we would prefer not to forward a view pertaining to either of these because when the individual is remanded or sentenced to our care he/she is placed in a rather unique position in that we do have a certain element of control over that person. This is very different from physicians in general who if they are not able to have a person admitted either voluntarily or involuntarily to a hospital they are probably able to exercise very little control, and this could be very serious in an ill person who is not eligible for involuntary admission under the new wording for section 8 and who refuses voluntary or informal admission.

We do agree with the principle of being able to detain a person who is the subject of an application to a psychiatric facility and to restrain, observe and examine him in the facility for a much shorter period of time; however, we do feel that 72 hours is not sufficient, and that this period of time should be extended by at least a further two or three days.

The new wording that a justice of the peace may make an order for an assessment by a physician where, upon the information before him, he is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in serious bodily harm to the person, serious bodily harm to another person or imminent and serious physical impairment of the person, makes good sense to us.

Our ministry has prepared a submission concerning the new Mental Health Act which has been presented to the legal task force of the Ontario Council of Health, and all the following material has been included in that submission.

The Ministry of Correctional Services' main purpose is to carry out the legal duties imposed upon the ministry by the courts for the protection of society; and to attempt to modify the attitudes of those in its care and to provide them with the kind of training and treatment that will afford them better opportunities for successful personal and social adjustment in the community. The legislative framework which implements the goals and services of our ministry includes federal and provincial legislation including the Criminal Code, the Parole Act, the

Prisons and Reformatory Act and the Ministry of Correctional Services Act.

Our new Ministry of Correctional Services Act states that where an inmate requires treatment in a psychiatric facility under the Mental Health Act, the superintendent shall arrange for the inmate to receive such treatment and shall make a report respecting the treatment to the ministry. The Mental Health Act, RSO 1970, c. 264, s. 14-18, provides a procedure for remanding an accused into custody for observation under the Criminal Code. It is at this point in our opinion that a great deal of legal and administrative confusion can occur. While under the British North America Act, 1867, as amended, the federal government has an exclusive jurisdiction to pass laws dealing with the criminal law and criminal procedure, the provincial governments have the exclusive jurisdiction to pass laws with respect to the establishment, maintenance and management of hospitals and asylums in the province. The question raised is whether a magistrate who remands an accused for a mental examination under the Criminal Code should also make a concurrent order under the Mental Health Act. We feel that this perplexing problem needs clarification and that the amendments to the Mental Health Act do not resolve this dilemma. Perhaps an amendment to the Criminal Code may be the necessary solution.

We also suggest that section 20(3) should be amended to reflect the policy that an inmate who has been transferred to a psychiatric facility from a jail becomes the responsibility of that psychiatric facility. This could then be reflected in areas where mentally ill patients may be absent without leave.

From our point of view, we would support the idea of hospital orders which are at present used in Great Britain because this relates to courts sentencing persons directly to psychiatric hospitals or mental health facilities.

The operation of mental health facilities in a correctional setting can create problems. Section 16(2) of the Ministry of Correctional Services Act places the duty on the superintendent of a correctional institution to arrange for the hospitalization of an inmate. Thus, the right of a prison inmate to receive psychiatric treatment is protected. However, the thornier problem of whether an inmate has a right not to be treated is not easily resolved.

Of major significance is the issue of the confidentiality of psychiatric reports. The oath of Hippocrates and the code of ethics relating to physicians instruct doctors to keep

confidential disclosures made by their patients. This position is in contract to the common law, which does not recognize a physician-patient privilege. The Ministry of Correctional Services feels that the physician-patient privilege should receive legislative support. The ministry believes that an inmate's belief in the confidentiality of his communications to a psychiatrist will have a bearing on his treatment. We note with approval the amendment to the Ontario Mental Health Act which would establish a qualified privilege.

It is easy to see that there are a large number of statutes which cover the admission of inmates into a psychiatric facility. We feel that it would be extremely useful to consolidate these practices so that there can be some uniformity and consistency throughout the province. It is evident that the present methods should be reviewed with the policy that any inmate in a provincial correctional institution who suffers from mental disorder should become the responsibility of the Ministry of Health. The Ministry of Health then could treat the person and, hopefully, rehabilitate him so that he may rejoin society.

Question, raised by Mr. Ziemba related to:

#### FUNDING COMMUNITY PROGRAMS

"It's regrettable to see the small amount of money spent in your ministry on the community program . . . as far as the overall budget is concerned."

Response by the ministry:

Whilst severe constraint is evident in terms of the ministry's overall estimates, a significant shift has taken place from institutional to community programming. Comparing the 1978/79 estimates to the 1977/78 estimates allocations it can be seen that funding for the community program has increased by 21 per cent (\$2.6 million) compared to only two per cent (\$2.4 million) for the institutional program.

	\$000's		Increase	
	77-78	78-79		per
	Estimates	Estimates	\$	cent
Institutional	97,740	100,149	2,409	2
Community	12,514	15,158	2,644	21

Closures of various institution programs has permitted the ministry both to meet constraints in funding and to shift funding to community programs where service can be delivered much more economically.

A full explanation of the increased funding for the community program is available in

the ministry's estimates briefing material. The more significant reasons are as follows: (i) Introduction of the community service order program; (ii) addition of 23 staff to the Ontario Board of Parole to allow for creation of regional boards in line with expanded responsibilities of the board; (iii) addition of 58 staff to the probation and parole services branch to provide for supervision of increase in number of parolees; (iv) addition of 22 probation officers to offset impact of 17 per cent growth in number of probationers over the last year.

It is also intended to expand fundings of the community resource centre program in addition to that reflected in the printed estimates by making further savings in the institutional program.

### DRUG USE

Re drug use in Ministry of Correctional Services jails and institutions.

Response by the ministry:

Over the past six months we have done a survey to try to give us an approximation of the use of medications within our jails and institutions. It is important to note that this was not a research project, and therefore the data does not have that level of precision. But, as the approximation for which it was intended, it serves a very useful purpose.

We have not indicated the use of narcotics within our system because with the exception of those present in other combinations, such as Frosst 292's, the use of narcotics is practically non-existent.

Summary of our findings is as follows: (a) On days chosen at random there were fewer

than one-third of all our inmates receiving oral or parenteral medications; (b) less than 10 per cent of our inmate population received either mind altering drugs, analgesics or analgesics stronger than ASA or Tylenol. In fact, in the three categories the most common occurrence was 0-2.5 per cent; (c) In terms of total number of medications dispensed, it was found that 18.3 per cent were mind altering medications; (d) in terms of total number of medications dispensed it was found that 16 per cent were analgesics; (e) also it was found that 7.2 per cent of total medications were analgesics excluding ASA and Tylenol.

Comparison of use of analgesic medications for past two years: Analgesics were the only medications which we felt could be reasonably accurately compared for the past two years. Our purchasing department did not have invoices for mind altering drugs because these records are maintained in central pharmacy of the Ministry of Health, and other kinds were not in sufficient numbers to provide us with significant accuracy.

Use of Analgesics 1976-77 was 160,000 pills, tablets and/or capsules; jail population 1976-77 was 55,667 males plus 3,695 females—59,362 persons.

Use of Analgesics 1977-78 was 110,000 pills, tablets and/or capsules; jail population 1977-78 was 55,380 males plus 3,692 females—59,072 persons.

Therefore use of analgesics decreased in 1977-78 from level of use in 1976-77. Until we obtain information to the contrary, we are assuming that this pattern would reflect on other types of medications as well.



## CONTENTS

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Wednesday, October 25, 1978

Opening statements: Mr. McMurtry, Mrs. Campbell, Mr. Lawlor .....	J-267
Adjournment .....	J-284
Appendix, responses from Ministry of Correctional Services .....	J-284
To questions raised by Mr. Bradley	
Staff discipline re Shapiro report .....	J-284
Staff training re Ombudsman's report .....	J-284
Article on deinstitutionalization .....	J-285
Staffing at Vanier .....	J-285
Fire prevention training .....	J-286
Future institutional populations .....	J-286
Amended Mental Health Act .....	J-287
To questions raised by Mr. Ziembra	
Funding community programs .....	J-288
Drug use .....	J-289

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
 Davison, M. N. (Hamilton Centre NDP)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P. (Humber PC)  
 McMurtry, Hon. R.; Attorney General, Acting Solicitor General (Eglinton PC)  
 Renwick, J. A. (Riverdale NDP)  
 Ziembra, E.; Acting Chairman (High Park-Swansea NDP)







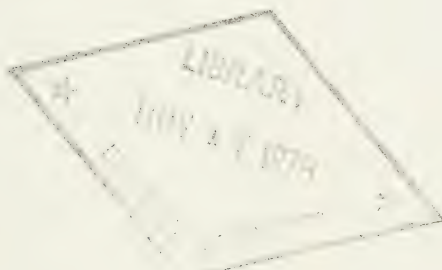


No. J-12

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

**Administration of Justice Committee**  
Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**  
Thursday, October 26, 1978

Speaker: Honourable John E. Stokes  
Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

THURSDAY, OCTOBER 26, 1978

The committee met at 3:55 p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

**Mr. Chairman:** Now that the Attorney General and Mrs. Campbell are reconciled, I'll recognize, at least temporarily for the next half hour or so—whatever, while Mr. Lawlor continues his opening statement—I'll recognize a quorum. Mr. Lawlor.

**Mr. Lawlor:** Is this a new statute of limitations?

**Mr. T. P. Reid:** It takes him that long to say hello.

**Mrs. Campbell:** Where is the new statute?

**Mr. Lawlor:** It will take at least that long to think of what to say. Starting part 2, chapter 1—

**Mr. Campbell:** It isn't a soap opera.

**Mr. T. P. Reid:** It's a prologue.

**Mr. Lawlor:** In a sentence, starting back at the beginning, I think it should be recognized—it's been said but perhaps with not sufficient emphasis—arising out of the conversation of yesterday on the role function of the Attorney General, as far as I and I'm sure the opposition generally is concerned, we approach this particular ministry rather more differently than any other ministry of the Crown. And I'd like the Attorney General to know that. Because of what was said with respect to the transcendence, if you will, of your function—that you oversee, that in a sense you're neutral in line with the British policy—we are cognizant of that and perhaps we subject the Attorney General's office to an adequate scrutiny but do not subject it to the kind of critique or pillory, if you will, that may apply in any number of other ministries. We don't seek to scapple you.

**Hon. Mr. McMurtry:** Well, I feel a little scappled from time to time.

**Mr. Lawlor:** Only when you deserve it.

**Mr. T. P. Reid:** That being the subjective approach.

**Mr. Chairman:** You've been paying too much attention to Mr. Hennessy.

**Mr. Lawlor:** Nevertheless, it's swaddled within the type of respect that we have for the office, and for you, for the minister involved in the office—providing that you toe the line and carry out responsibilities commensurate with what that office requires.

Yesterday I pretty well finished with the psychedelic business, with the matters having to do with psychology, except, as the Attorney General has learned, he either deliberately or negligently left along the hallway a cabinet submission that came to our attention.

**Mrs. Campbell:** How did everybody get that?

**Mr. Lawlor:** May I say we may get more deeply into this later on, but I have no intention on this occasion to go deep into that particular document for a number of reasons. First of all it doesn't tell me a great deal and, as I say, the references to I think the four appendices that are mentioned in the course of the thing would be far more fruitful and far more informational so far as the members of the opposition are concerned than what is actually contained herein. But what is said here is fundamentally what was said during the day yesterday by Margaret Campbell and by myself.

[4:00]

It does give some direction, which you no doubt will bring to your terms of reference with a greater perception than what your initial statement indicated as to the areas into which one may enter and the parameters that would be used in that investigation. I suspect you could very well use some of this wording as to exactly what the extent and the limitations of the inquiry might be.

It would have been embarrassing, I'm sure, for you to have had to answer the question of the Leader of the Opposition (Mr. S. Smith) at the question period today as to why a categorical recommendation was given by your ministry to the cabinet but, subsequently,—what would the word be, revised?—

**Mrs. Campbell:** Edited.

**Mr. Ziembra:** Revisited.

**Mr. Lawlor:** —was revised and revisited. As I said yesterday, the revisitation was



adroit and, therefore, I would take umbrage with that.

It's vital to bear in mind that an inquiry into organizations offering mind development programs must be carefully circumscribed and beliefs and faiths professed by the organization of religion should not be the subject of examination. It is the alleged practices of such organizations that have raised public concern. An examination could be a matter of promotional techniques, contractual terms of agreement, provisions for the waiving of the organization's responsibility for all detrimental effects of this process and the financial conditions attached to entry. That line of approach is more a kind of consumer protection in legislation than what otherwise might entrench upon the provisions of the Criminal Code or that kind of law. That's, of course, highly restrictive. I'll see what finally emerges.

I want to talk about the courts, but in an overview, just a very generalized overview of caseloads and backlogs, which I would trust we will be able to get into with more delicacy later on, and of course, the act of breaking down figures and trying to detect areas that might assist the Attorney General and his department as to ways and means to alleviate that load. Mr. Justice Howland, in a statement made to the opening of the law court, I think it was in 1977, being used in 1978, gave perhaps a rather more palatable picture as to that load against what is contained on page 58 of the blue book, the book of notes given to us to assist us in preparation here, for which I thank you.

On that page, the operating statistics of the fiscal year 1977-78 are set out and bring us down to a much closer date than the earlier statement of which I spoke. It shows the court of appeal is in rather worse condition than was indicated earlier, that cases for the fiscal year disposed of were 1,342 on the criminal side leaving more than 50 per cent still pending at the end of the year, namely 832.

We must take into cognizance that while they're pending they may not be ready to be heard. That's the difference. I would eventually like to receive a statement as to what is the status of that kind of case presently—those that are ready to be heard but because of the backlog cannot be heard. On the civil side, the cases disposed of were 920 and pending were 843. Again, certificates of readiness, the transcripts and what not may not be ready for the court proceeding. Therefore the figures may not be quite so horrendous as they appear in that particular area.

Beneath that is set forth the position of the high court.

**Mr. Renwick:** Mr. Chairman, would the honourable member allow an interjection to him? For any inventory purpose, don't we need the figures going into the year?

**Mr. Lawlor:** They go into the fiscal year.

**Mr. Renwick:** Those disposed of during the year and pending at the end of the year. Don't we need pending at the beginning of the year?

**Mr. Lawlor:** I would assume that the figures going in are pending at the end.

**Mr. Renwick:** Where is that?

**Mr. Lawlor:** As of March 31, 1978, there were so many cases only pending.

**Mr. Leal:** It is not as clear as that but I think that is literally true. They clean up the list at the end of the year.

**Mr. Renwick:** For these figures to be meaningful, don't we need the pending at the beginning of the year as in an inventory?

**Mr. Leal:** Yes, except with the Court of Appeal there is no backlog, no arrears, at the end of the term in the spring, so we can assume that that is the situation. We can't assume that with the other courts.

**Mr. Lawlor:** If I may ask, from my point of view, when I said I didn't want to go into depth, that's what I meant. I have similar figures from previous years as to what was pending at the end of the previous fiscal year, but I haven't got them here in front of me at the moment. I intend to go into that in some more depth, contrasting maybe for two or three years what the increased work load is.

Of course, many of the figures are contained in the blue book here further on. As a matter of fact, if you just turn to the criminal appeals, they are on page 60 for the Court of Appeal, showing for the years 1974-75 on. You can see the mounting at the bottom of that page. Appeals pending at the end of the period, say, 1975, were 607, whereas those pending in the previous year were 699, which is not a great leap; but then at the end of 1977-78, it has gone to 858.

That's what's bothering me and I'm sure it's bothering the Attorney General quite a bit too. That's in the area of the criminal appeals. The divisional court is on the next page. The civil appeals are at page 62. The number of cases pending is down as against the previous year. At the end of the period 1977-78, they were down to 780 cases, which would indicate the concentration in this particular area—and all to the good.

Just to resume with the stuff at page 58 with respect to the criminal cases disposed of during the year, in the area of the civil jury cases in the high court, disposed of were 795 and pending 427. I know you can't on the basis of that say that 50 per cent, or somewhere close, is what is pending and therefore they're six months behind. Each one of the cases has its own time length and that's the difficulty with the caseload management situation. It's extremely difficult to set up the time delimitations that would be involved.

By and large and by a rule of thumb, that would tend to even out I suspect—some would be shorter than others. But I would like the Attorney General to indicate whether that is so. When a case is ready for trial, what period of time on the civil jury list would be anticipated by counsel bringing the case on? The criminal cases as disposed of were 295 in the high courts and pending only 75. The fact that the court could get through 300 cases in the year and has a very small number left, it seems that perhaps that is not well in hand, but in hand.

In the case of divorces going from 2,400 approximately to 700, there has been a task force I believe on that particular area. They moved in on the defendant divorces and have reduced them very substantially. Take a look at the undefended divorces, from 20,000 down to 1,800. Now there definitely was task force work done in that particular area.

On the whole it would appear that court of appeals is in some difficulty but that the high court is managing to stay abreast or clear of the cases in an entirely sensible way. The county court situation—starting on page 67 and coming down on page 68—it shows the outstanding cases as of May 31 broken down as between York and all others with the total figures. They again are somewhat alarming. The jury isn't bad but the non-jury cases have gone from the previous year of 3,600 up to 5,700 cases on the list of outstanding cases. Again, the percentage of those cases really to be tried, from the point of view of counsel—I suspect they will have a very long wait—takes months and months even after they are in readiness to proceed.

The divorce situation remains fairly abreast of the previous year and the summary conviction appeals have gone down from 5,600 to 5,200. In that area I understand the county court judges did a blitz and they wiped out about 4,200 cases—bang. But while doing that, 4,216 cases came in. They lost the battle over eight court sittings, by 16.

**Mrs. Campbell:** It wasn't the battle, Pat, they lost the war.

**Mr. Lawlor:** It was a war. But they are right back where they started from and would have to go through that trying period again. This will be mentioned, of course, later in the estimates, but we'll mention it now because this is an area of very considerable concern. Something is going to have to be done about the summary conviction appeals as they come up. I would like to have your nostrums and Solomonic wisdom as to what you are prepared to do about it.

**Mr. Bolan:** General absolution.

**Hon. Mr. McMurtry:** That's why we are going to pass the Provincial Offences Act this fall if at all possible.

**Mr. Lawlor:** I see, you think that's your solution?

[4:15]

**Hon. Mr. McMurtry:** It is a large part of it, a very large part of it.

**Mr. Lawlor:** It very well could be. I thought you would place some kind of limitation upon it with respect to jurisdiction or place an entry fee upon filing—any number of steps which were talked about in the past could be taken to cut down on that.

In the divisional court, for instance, I suspect that you intend to do something about the small claims court appeals going to divisional court. They are loading that court with matters which I submit ought not to be there, at least, I suspect, again within a monetary parameter of some kind.

That in a general way is the backlog picture in the courts—except for the most horrendous of all. At pages 77 and 78 are the figures for the caseload situation in the provincial court, criminal division. You will see the magnificent total of 3,388,611. No wonder the Provincial Offences Act. That is where it will have the impact. That figure includes everything. It includes highway traffic, liquor control, municipal bylaws and the federal government, which is always cluttering up that court. But that figure is just appalling when one sees it, and it hasn't improved materially over the previous year.

How can 121 judges plus justices of the peace et cetera possibly contend with that list? If a prosecution were launched today in most of the area surrounding Toronto, the case couldn't possibly be set down for trial until March or April anyhow of this coming year. Those are Criminal Code offences.

I was going to make some brief remarks with respect to the provincial offences legislation, and it seems to flow right now.

The legislation may not be as beneficial as you hope it will be. Fundamentally, I think we will support it, of course—any move at this time is salutary—but will it really solve your problem? The provincial judges are overloaded in hearing criminal cases, the cases which they have to try, much less the bylaws, the highway traffic offences, the business of drinking too much and selling it out the back door and all those horrendous crimes that people commit.

I think you will have to concede that it may be true in many rural areas of the provinces, as I suspect, that the new Provincial Offences Act would be an enormous relief, because it would delegate off and siphon off from the judge sitting there an enormous range of minor offences, whatever that means.

But in the metropolitan or built-up areas I don't think it is going to have the impact that you desire of it or possibly anticipate. The situation will still remain bad, again because the provincial judges don't hear these cases anyway, by and large—not in the metropolitan areas; they are already pre-occupied with the serious charges.

In your little brochure—why are you always so self-serving? All government departments—not just you. Glowing terms are set forth in this document about what an alleviation this will be to the criminal process, both procedurally and in substance, et cetera, without indicating anywhere throughout the thing your distinction between what you consider a serious offence to be—leave the Criminal Code, that's serious, but other offences under highway traffic, or narcotics—not narcotics, but liquor. You apparently still attempt to retain some area of that, maybe say careless driving or something, in the provincial judges. Somewhere along the line I would like to see what statutes would be tried with justices of the peace, which ones would be left in the hands of the—in other words what the wording of your brochure really means in terms of the handling of cases and what alleviation can be anticipated in the courts under this particular head.

I'm not going deep into the matter; it will get second reading, we'll have plenty of chance. It will go into committee, we'll spend months on it, we'll become all good friends again and things will go on.

But, just in general, one has to affirm it in order to relieve the courts. But reasons of expediency, pure pragmatism, is a dangerous area with respect to the categorical matters of justice and due procedures. Here you

virtually reverse the onus with respect to accused people.

Hon. Mr. McMurtry: No, I'm sorry, I have to object and say that I think you're mistaken there, Mr. Lawlor.

Mrs. Campbell: With respect.

Hon. Mr. McMurtry: With respect.

Mr. Lawlor: That's the way I read it. The right to remain silent and the ancient British rule of being innocent until proved guilty is called into question in this legislation and, as I say, a watering down process is involved here in order to meet the exigencies of the present with respect to court loads. I would have you scouted very carefully and know that at least one member of the opposition feels this way, so that you're adequately prepared to counteract the argument. The Crown no longer must prove its case, in the accepted sense of that term, up until this time. A somewhat more inquisitorial element there, of an element in French law, is beginning to penetrate our system.

Thirdly, you say somewhere in the brochure it's not so criminal in nature. In some ways, in the procedural ramifications of the proposed statute, it's more onerous. The word is not "Draconian"; I was approaching that. It's more restrictive and stipulative and rigorous in its operation than the normal proceedings in the court. Again, I don't want to argue the proposition at the moment, that's for second reading, but there you are, that's the way I feel about it.

Last, the superficial comment I will make on the issue is that it will be a great fine gatherer.

Mrs. Campbell: He wants to increase his revenue, Pat. He said so.

Mr. Lawlor: Oh, the levy of fines will delight the heart of even the old Treasurer of Ontario, if he ever looks at the figures.

By the way on that—on the moneys coming in—as the Attorney General pointed out yesterday, this is almost a self-financing ministry. The amount of money that came in by way of licences, fees, fines, government of Canada reimbursements, was \$98,403,000. If you took into cognizance another area which fairly recently was part of the department—that is the whole area of fees coming through registry offices, land titles offices, my lord, you'd be in business.

Mrs. Campbell: A money-making proposition.

Mr. Lawlor: It wouldn't cost the Treasury a penny and you would have money on the side. You might even throw the odd dinner or something, really stretch yourself. But the



amount of funds is something to conjure with and look at. The funds coming in from the provincial court criminal division are \$63 million. Your new legislation is not deliberately designed to do that, and I'm sure this is not at the back of your mind, but let's say latterly, to one side, it will increase the amount substantially, because the imposition of fines and alternative remedies, et cetera, a broadening out of the remedies will be utilized to a far greater extent. The modes of extraction within your new statute are quite elaborate now.

You won't have to increase taxes, you'll be able to balance the budget by 1981 and things will go swimmingly. If you can just hold off an election, you've got nothing to fear.

I want to speak for a few moments about public defenders. I want to bring to your attention the completely delightful article which you found completely distasteful by somebody by the name of W. Niels Ortved contained in the Gazette of June 1978 where Mr. Ortved, that well-known accomplice to the Ombudsman's office, has some rather cryptic and cutting things to say about them. Anyhow, he doesn't like the public defender concept, I can assure you of that. I read between the lines.

**Hon. Mr. McMurtry:** I've read and reread the article. Mr. Ortved is—

**Mrs. Campbell:** You would confer.

**Hon. Mr. McMurtry:** —a good friend of mine. We obviously have a difference of opinion.

**Mr. Lawlor:** Maybe when we get to legal aid the problem will become somewhat more critical. I would like to know if you could let us have some information—you're much too close about these things. You sent Dave Humphrey and a couple of other people wandering off into the azure, picking up information. I'm sure David enjoyed himself thoroughly. They came back to you with a report. He knew what you wanted him to say, I'm sure of that, and therefore—

**Hon. Mr. McMurtry:** Oh, no, no, no.

**Mr. Lawlor:** No? What a terrible thing to say. I take it back. He didn't know what you wanted to say, but he said what you wanted to say anyway, let's put it that way. In any event, I'd like to see that report. Is that possible?

**Hon. Mr. McMurtry:** Yes, I'd be happy to show it to you. I was just instructing Mr. Chester to obtain copies of the very interesting report.

**Mr. Lawlor:** Good. We say a nice word to you and you open up completely, just like a clematis, a sunflower.

**Hon. Mr. McMurtry:** I'll try to have copies of the report for you.

**Mr. Lawlor:** Okay, I won't say anything about public defenders for the moment. We'll get back to it.

You're Solicitor General now and performing both functions and I agree with Margaret's comments on this. It's not a matter of great principle. The heavens won't fall, at least I haven't noticed that happening recently. But Henny Penny ought not to be doing both jobs. Henny shouldn't be speaking to Penny, so to speak. But since you are there, maybe you can do some good work. You see, my colleague Jim Renwick and myself are fairly convinced that the secretariat doesn't operate properly and that the—

[4:30]

**Mrs. Campbell:** That would be unanimous, Pat, if you're not careful.

**Mr. Acting Chairman:** You are treading on dangerous ground. You ought to realize that I am in the chair.

**Mr. Lawlor:** You have heard all this before.

**Mr. Acting Chairman:** Maybe I agree with you.

**Mrs. Campbell:** I told you we were unanimous on that one.

**Mr. Lawlor:** Please note that, Hansard. If you put asterisks in Hansard, put one there.

**Mrs. Campbell:** Underline it, if there is any way.

**Mr. Lawlor:** But since you are, there is going to be great opportunity for an interweaving of police functions and overseership of that, vis-à-vis what you well know, having served long enough now in the office of the Attorney General, the divisions that are too grey. The liaison between the police and the laying of charges is rough, is dislocated.

I think too many charges are being laid and that surveillance of that charge process should be more acutely preserved by the crown attorneys—by your office in your capacity as Attorney General. One well understands, from the public relations point of view and in appeals for funds and to maintain the prestige of the force, that they lay every charge in the book whenever they get the opportunity to do so. It improves the statistics enormously. But the disposition of cases, the cases that convictions are reached on, there is a great basis for plea bargaining. "We will accept the first one but knock out the other five." It's done all the time, and more or less legitimately, because the damn charges should not have been laid in the

first instance if the proper supervision had been given to the situation.

Whether you concede or not that these practices are going on—and it's extremely difficult to retrench on them. When people get into the habit of doing something the habit is hard to break; it's been going on for a number of years now—particularly with restricted budgets all over the place and the police having to come cap in hand in order to maintain the level that they think is necessary; and if they can present a somewhat fulsome figure, then their case is much better made. Nevertheless it's not doing anything for the courts, I can tell you. It's one of the major reasons, in my opinion, for the existing backlogs.

I wanted to quote you just one sentence from Ron Basford, a statement contained in the crown's newsletter of February 1977, issued in April of that year. It's one of the best issues I've ever seen. It's called "Hope for an ailing system?"—it's even got a question mark behind it. It discusses the Ottawa conference at some very considerable length—and what an abortion that was. If any political party in this House is going to try and restrict abortions, then I think that abortion might have been—It's so much talk, and having achieved so little.

Anyhow, Ron Basford says in that newsletter at page 16—he's going over scheme after scheme and wringing his hands a bit—with his bald head he hasn't got a hair left to scratch, on this particular issue. And he says: "I am convinced that we must press forward with diversion schemes," et cetera—going through the lot—and even suggesting the elimination of preliminary inquiries which the defence bar knows is the only time they got a chance to take two bites of an apple, both of them poisoned.

In any event, the paragraph says: "Would a closer working relationship between crown counsel and police officers in screening of charges in high volume and serious offences not have a real effect in reducing unnecessary or badly drawn charges?" I think it would and it's an area where you can now act and work effectively apart from placing a greater emphasis on concepts of preventive policing. As to cutting back on police officers who have to attend, again the new bill would have a beneficial effect in this particular regard. I'll be quite frank about it in autobiographical terms. When a charge is laid against me these days, I fight it if I can possibly find time because the police officer is not likely to be present and the charge will be dismissed.

It is my habit in the Attorney General's estimates each year to launch into—and this year it will be short, I assure you—somewhat more esoteric regions of the law. Recently published in Canada was a little booklet of a lecture given by George Grant who, so far as I am concerned is—

**Mr. Leal:** The mastermind.

**Mr. Lawlor:**—probably our best-known international philosopher in any case in the area of political science and matters of that kind. Whatever you may think about George's cerebral processes being attenuated with respect to conservatism, nevertheless he's a delightful guy. He's brilliant and he's witty and he's thoroughly down in the mouth all the time. I've mentioned that because I encountered him not long ago. He was at a conference over here. I happened to be sitting in the audience and asked a question of him.

I was praising in the question the most optimistic beggar who was ever born. Teilhard de Chardin. We were all coming into expanded mind consciousness with Teilhard and evolution going forward. Those who are doing a little hard work in their leisure time were transcending themselves in the process and entering into the Omega principle and its new spheres, just descending like stratospheres. I personally have great respect and a liking for Teilhard. He gives you some heart and some hope about the future. George gives you absolutely none, and that's what our conversation was about. Let me tell you, I've never met anyone that's so damn sour. I think it has something to do with his religion.

**Mrs. Campbell:** Be careful.

**Mr. Lawlor:** I know. But original sin is something rather terrible. If it's condign, if it's deeply rooted, it may just completely emasculate any human endeavour at all. And it has very substantially done that with George Grant. Nevertheless, he writes well.

Anybody who writes well—I'm trying to think of the lines from Auden, "And Heaven will forgive Claudel, forgive the man for writing well."

You can disagree with everything he says, but he does it rather well. He has written a little book on justice, not on law, basically attacking John Rawls' Theory of Justice. I'll pause. A professor at Harvard University, probably the leading academician in this particular field these days, Rawls' is a 2,000-page book on justice theory. In the circles that happen to be interested in these things, it's a book that's conjured with very much these days.

Attacking Rawls' book means attacking a particular brand of liberalism which Grant calls English-speaking liberalism, which means a theory of society which holds that each individual comes into society out of a hypothetical natural state by way\* of a contract.

Men are not naturally social beings. Society is an artificial construction, not so much an organism, as an organization designed to protect and forward individualistic self-interest. Now the job of justice is to balance out these atomic selfishnesses and to afford a degree of bourgeois comfort to its denizens. In other words, the idea is commercial, pragmatic, expedient, seeks convenience and governs our lives by an instrumental reason only.

This superficial notion of justice without roots and without questions won't work any longer, so George says, and is breaking down. The moral cement that held it together was various forms of Protestantism and science has almost completely eroded it.

Secondly, it takes no account of new societal structures, particularly the power, size and growth of the corporations and their technological demands. It is stupid or blind to the primary currents of positivism, historicism, relativism, and various dogmas, such as Marxism, ruling the modern world. It does not think because it has never had to. It ruled the world and either brought or rode with the western affluence for more than two centuries. Now it is dying and we have nothing to offset the increasing nihilism.

It asserts rights, but private ones and cannot ground them, cannot justify them, being bereft of any anthology, and Rawls, the Harvard professor, epitomizes the decline or the bankruptcy. At 49, Grant says, "What must be then said about Rawls' theory, is not only whether justice as liberty and equality can rise from a social contract reached from a calculation of self-interest in general, but also whether it can be derived from a calculation in which the interests are self-evidently independent of any account of the way things are as a whole.

"After all, the first question has been on the agenda political philosophy since our contractarian theory was first enucleated by," that's his favourite word by the way, I wish he'd stop using it, "was first enucleated by Hobbes and Locke", "Is justice simply pursued because we calculate that it is the most convenient means to our self-interest?" Rawls raises nothing new about that question. What he adds however, is an attempt to justify this within analytical assumptions, and we won't go into modern analytic—is

true they cut off all metaphysics or any roots to what is behind the nature of things.

"For the last century a civilizational contradiction has moved our western lives. Our greatest intellectual endeavour, the new co-penetration of logos and techné "(technology)" affirmed at its heart, that in understanding anything, we know it as ruled by necessity and chance." That's physics. The natural world is ruled by mechanical necessity and chance.

[4:45]

"This affirmation entailed the elimination of the ancient notion of the good from the understanding of anything. At the same time, our day-to-day organization was in the main directed by a conception of justice, formulated in relation to the ancient science in which the notion of good was essential to the understanding of what is. This civilizational contradiction arose from the attempt of the articulate to hold together what was given them in modern science with a content of justice that had been developed out of an older account of what is.

"It must be emphasized that what is at stake in this contradiction is not only the foundations of justice but, more importantly, its content. Many academics of many disciplines have described the difference between the ancient and the modern conceptions of justice as if it were essentially concerned with differing accounts of the human situation. The view of traditional philosophy and religion is that justice is the overriding order which we do not measure and define, but in terms of which we are measured and defined.

"The view of modern thought is that justice is a way that we choose in freedom, both individually and publicly, once we have taken our fate into our own hands and know that we are responsible for what happens. This description of the difference has indeed some use for looking at the history of our race, useful both for those who welcome and those who deplore the change of view."

Rawls sets up an original situation in which everyone is ignorant of what their lot in life might be. Therefore, not being in a privileged position to start with, they have to take their chances that they may end up in the most miserable position, even enslaved. Therefore, what would they do about a regimen of justice in that particular case?

It's then a choice of division among primary goods. Primary goods have nothing to do with the spirit. They have to do with housing, food, clothing, and the basic necessities of life and how is that going to be divided up. Even in a most affluent civiliza-



tion, there is never enough to go around. So what is the division of spoils?

He says: "In such a situation, equally in primary goods for a majority in the heartlands of the empire is likely"—in the heartlands of the American empire. You might be able to get some kind of equality within Rawls on that basis, but what about the rest of the world? He says: "But it will be an equality which excludes liberal justice for those who are inconvenient to the 'creative.' It will exclude liberal justice from those who are too weak to enforce contracts — the imprisoned, the mentally unstable, the unborn, the aged, the defeated and sometimes even the morally unforming. The price for a large-scale equality under the direction of the 'creative' will be injustice for the very weak.

"It will be a kind of massive equality in primary goods outside a concern for justice. As Huey Long put it: 'When fascism comes to America, it will come in the name of democracy.' We move to such a friendly and smooth-faced organization that it will not be recognized for what it is. This lack of recognition is seen clearly when the President of France says he is working for 'an advanced liberal society,' just as he is pushing forward laws for the mass destruction of the unborn."

I'm not going to debate the issue that's being debated up in the House at the present moment or peripherally debate it. Grant goes on about the particular problem in abortion and his feelings about it. What all this comes to, he says, is that in taking justice as a balancing of interests and taking it as a basis of straight individualism of the assertion of merely individual rights and not recognizing community rights and not seeing the interdependence of human beings and the intersubjectivity that runs our lives in what has been traditionally the concept of liberal justice in the English-speaking world, that it is inadequate, that it is failing all around us, that it was held together by certain religious belief, and anarchy ensues and forms of nihilism, of emptiness, of disbelief, of meaninglessness in life are penetrating, coming in on us.

It is a very dark vision, typical of George. But at the same time there is a good deal of truth to it; it has to be listened to. This thinking does not know what a person is; it can't validate personality. It can talk about individuals, but to be a person is different; it is more than being an individual.

We could spend time on it, but this is not a course in the humanities—at least our session here today.

He doesn't know what liberty is—he really doesn't—and will erode liberties in terms of convenience and in terms of comfort. Liberty is something categorical that may not be infringed upon whatever the sacrifice that is involved.

The bourgeois citizen, in Grant's opinion, doesn't know what equality is and doesn't really strive for equality, except as an opening quality in terms of some kind of opportunity—and that is Rawls too. But the substantive equality of human beings in material terms, not just in rhetoric—did I say that? I was defending rhetoric the other day.

His conservatism gives a totally different approach and meaning to the term "justice." As to what we are fit for—what is our good? what is the highest good?—he claims liberal doctrine has no notion of the highest good. It has got plurality of goods. It notes anarchism. It doesn't know which is supreme, which is more important than any other; they are all equally important. It is just a quagmire and a mess, for an ordered intelligence like that of George Grant—or for any ordered intelligence, if I may say so.

What is natural to the human condition—and, therefore, while he doesn't say it in the book, I suspect he is a natural law thinker—is that there is a law, deeper and higher or beside the positive law, which is the measure of the positive law. Where it emanates from can be a matter of some dispute, but it is rooted in human nature. Human beings will grow when the law is good, and that is what you mean by good law; it both permits and encourages them to grow to be full human beings.

Much law obtrudes upon that. Much law restricts and twists and has a contrary effect upon human growth and development. That is what we are worried about in this religious stuff and on this psychology thing: the impingement of a technological state upon conditions of human development. It is a matter of great urgency and rankles my skin. It is external to men, this liberal law, except in their private or family lives. The public realm is not; it is not communal. Everything is a contractual efficiency, and the chickens are coming home to roost.

I will finish this up by summing up as he sums up. He says: "The decision then speaks to modern liberalism in its pure, contractual form: right prior to good; a foundational contract protecting individual rights; the neutrality of the state concerning moral values; social pluralism supported by and supporting this neutrality.

"Indeed, the decision has been greeted as an example of the nobility of American contractarian institutions and political ideology, because the right of an individual 'person' is defended in the decision against the power of a majority in a legislature.

"Nevertheless, however 'liberal' this decision may seem on the surface, it raises a cup of poison to the lips of liberalism. The poison is presented in the unthought ontology in negating the right to existence—"

I won't go into this.

**Mrs. Campbell:** You should stop there.

**Mr. Lawlor:** I don't want to get back on that debate.

This is the most recent documentation I have seen on that whole issue of justice and how it affects it. It is the background against which all our thinking must be done as we pass laws in this House as to what the effect will be.

The words of George Grant in this thing—I think he was worthy of being brought forward at the time of estimates, to refer to him, to give him the proper accolades, to recognize that he exists, because he is looked down upon generally by the philosophical academic community, perhaps because he's too much of a publicist because he goes out into the forums too much. He tries to speak, although you wouldn't believe it from reading, in terms that anyone can understand and—well, so be it.

The judicial council. I don't think Callaghan should be taken out of there. I'll just have you bear that in mind. This is mooted constantly. I'll come back to it in a moment.

You ran into great trouble in the Central-West experiment. You never made it very clear to us exactly why. I suppose it would somewhat castigate the individuals involved, particularly the judges, in nonco-operation, in adhering to traditional lines and being extremely, overtly jealous of the prerogatives that have always been recognized there. So the Dalton Bales proposal that you would run the show had to be abandoned in terms of straight practicality. So you set up a judicial council composed completely of judges, and you appointed Frank Callaghan as, in my opinion, the pivotal person to make the thing work. Court problems are infinitely more trying and pressing. Make Callaghan Ombudsman in five years' time.

But that problem of the backlog. Judges, by and large, have no competence particularly in the area of administration, they have had little law offices of five or six people, they might have met a secretary on occasion, you know. But computerized analysis of opera-

tions; that's done by the managers, et cetera. It would seem to me that it would be just as well have a judge know something about these things, and Frank, as deputy, became very much aware of internal systems analysis and the way a large office such as yours is run. I'm sure it's an eye opener to Allan Leal. Sitting up there at the law school, of course, he didn't learn about anything important such as running a big office, much less his law reform commission—the benightedness of that institution.

Callaghan had this inside knowledge on both sides of the fence—a good acquaintance with the courts, in any event, that would come in with the analysis, the systems setup backing him—that's why you put him there, in my opinion. Pace, pace. That's why he's there and I don't know how it's working, really, we will learn perhaps from you as we go along whether it's being efficacious or not.

But in Ontario, it appeared the only way. You had to delegate that responsibility out. You had to place the court management under the general suzerainty of the judges. True, you're paying the shot, and of course you can use it in the future if it suits your purposes—I'm sure you'd never dream of it—sifting off the responsibility to the judicial council whenever you are in a tight corner as to the operations of the courts. But it's there and in this particular operation you talked about being stubbornly resistant yesterday in a different context—

[5:00]

**Hon. Mr. McMurtry:** Not me, personally.

**Mr. Lawlor:** —but this is the only way to work down that resistance. Whether it is doing so is a matter that concerns us a great deal; because that is your solution. If the judges prove inefficient or incapable, if that type of job is not within their ambit of competence, then your system is going to be thoroughly troubled indeed, and you will have to reassume the responsibility, much to the chagrin of the judges. I suspect that we will see the first judges' strike in history—it will be terrible, with all those county court judges walking up and down in front of this building with placards; I can see them now.

This is what you face in this particular area. Under this head I would like to know what has emerged thus far. You mentioned yesterday that Mr. Justice Howland had set up a council with the bar. I don't know how many meetings they have had, what recommendations have come from the bar, what machinery had been set in motion. There has been time, now, for the thing to have got going; and when these court lists that I

outlined earlier continue to mount, it leads either to some logjam or deficiency there. What are their propositions or nostrums to you at this time in history to validate their tenure in this particular office?

I would like the Attorney General to address himself a bit, if he will, to the Langdon issue. I would like to know what's going on there. I hope the Solicitor General personally signs every certificate from now on, so that—

**Hon. Mr. McMurtry:** That's a different Langdon.

**Mrs. Campbell:** You were startled.

**Mr. Lawlor:** —I haven't seen the judgement. Have you got a copy of the judgement around somewhere so we can look at it? Let me have one, if you will, and let the opposition have one. It is fairly well reasoned; he did a lot of work on it. Whether it will be justified, we'll learn.

Provincial court judges on impaired driving offences are in real trouble. Some of them, I think, will take pleas of guilty—of course, they'll always take a plea of guilty. If anyone comes and mentions the name "Langdon," I think there is a general hesitation. I would like to know whether you have issued any directive, or anything like that, to the provincial judges as to how they should handle the issue meanwhile. Because if he's right, there are literally hundreds of thousands of impaired driving charges in this province for many, many years that would be in jeopardy—that's all there is to it. So, do say the word to us about the Langdon issue.

About Kerr—George. I don't take the same position as Margaret Campbell does on this thing at all. I don't condone his action; I take more or less what the Attorney General said at the time when he was questioned. I want this committee to understand that and why I haven't said a word about the issue. Because I think it is overblown; I think a lack of perspective, a lack of balance is being exercised here, and I want to say so bluntly.

George Kerr has a propensity to make this peculiar kind of blunder. It comes out of his good nature more than out of any malice, and to stigmatize him, and for him to have lost his job over the issue, does no good for the opposition, as I see it in this province. And I am speaking particularly of you, Margaret.

**Mrs. Campbell:** I gathered you were.

**Mr. Lawlor:** Let's have a sense of proportion about these things. He shouldn't have phoned that crown attorney, there's no question about that. But what kind of retaliatory actions are going on because Munro happens

coincidentally to coincide—and he did something more questionable; you don't speak to judges about these matters. He was properly pilloried and took himself out of the play. Then tit for tat.

I think it's time the democratic system began to grow up. I know that it's not going to grow up because, as I said so, it's been around like this for centuries. Pitt said the same thing to Disraeli. It's just pure Gladstone. Sometimes they are like silly boys or girls calling lives into question and destroying human reputations and doing a disservice to the public realm, because George Kerr was doing all right, as far as I was concerned, as Solicitor General.

All right, I've said enough about it. I don't want to be a part of it. I think it's all wrong and I'll leave it alone.

The only last thing I've got to say to you is that if people haven't read or looked at a two-page article by a former Attorney General of this province by the name of Arthur Wishart, then I would ask them to do so. It's as funny as anything. It's called "Dispensing with Justice in the Boondocks." When he talks about "dispensing with," he means it. He talks about the time when he was a lawyer up at Sault Ste. Marie and a charge was laid against a client. There was a time limitation on it and he instructed the client to go fishing for the day or picking blueberries. Then it reads as follows:

"The crown attorney then asked for a warrant to commit Lucier to jail for contempt of court and, failing to appear in answer to a summons, the magistrate directed that a warrant be issued and the court then adjourned."

By the way, a Corporal Brown was serving summonses on people at the latest possible hour so that they couldn't hire a lawyer, namely, Arthur Wishart, to appear in court. The case would come on within hours of the summons being served. So Arthur wanted to get back at them. They left this one to the 10th day.

Wishart writes: "At this point, I said to my friend Corporal Brown, 'John, I think you should be very careful how you exercise that warrant. I don't think it is valid.'"

"'Oh,' replied he, 'we've got your friend dead to rights now. He'll be in jail before the day is over.'"

"'Just a friendly word of advice, John, I wouldn't use that warrant of committal if I were you.'"

"There was another conference sotto voce between the crown attorney, the magistrate and Brown. The warrant was never executed. The case was never called again."



That's all I have to say.

**Mr. Chairman:** I would now like to ask the Attorney General to let us partake of his nostrums and Solomonic wisdom, which Mr. Lawlor asked for earlier.

**Hon. Mr. McMurtry:** I'd like to respond to some of the very interesting and important issues that have been raised. I'll try to do this relatively briefly because there will be other opportunities to discuss these matters during the course of the estimates. On some of the matters, I don't want the committee to think that by reason of directing my attention to some of the matters that were raised that other matters are not of equal importance. It's simply that it might be convenient to respond to some of them now.

Mrs. Campbell made some rather interesting observations in relation to the role of the Attorney General as a unique role as compared to that of other members of the executive council. I don't take issue with anything that was said by Mrs. Campbell because we certainly do recognize in this province, and I've certainly attempted to recognize for the past three years, that the role of the Attorney General is a unique one and that the Attorney General must be detached from much of the political partisan aspect of the process in the Legislature and its activities for relatively obvious reasons.

Mrs. Campbell made the very interesting observation in relation to the Department of Justice Act—although there is no Attorney General's Act per se, I suppose the Department of Justice Act is pretty close to an Attorney General's Act—and Mrs. Campbell made the comment that the minister, being the Attorney General, is defined in section 5. She referred to section 5, and took issue with the fact that as compared to other provinces the Attorney General was defined in our legislation as the law officer of the executive council, as opposed to being Her Majesty's Attorney General. Mrs. Campbell pointed out, and I assume quite accurately, and I quote: "In at least four provinces the Attorney General is defined by statute as being Her Majesty's Attorney General."

I am always interested in Mrs. Campbell's observations, and I say this in a sincere fashion. As a result of her observations I decided, particularly with the first ministers' conference coming up in relation to constitution, I thought I might just look at the British North America Act. The Attorney General of Ontario is one of the few provincial offices that is actually referred to in the British North America Act. In section 63 of the BNA Act, "the executive council of On-

tario and of Quebec shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance the following officers, namely, the Attorney General—"and it goes on to name several others.

So it's interesting for us all to reflect on the fact that the Fathers of Confederation decided that the Attorney General was to be a member of the executive council of Ontario. That is section 63 of the British North America Act.

**Mrs. Campbell:** May I interrupt here and say I was pointing out that there is a difference in being the legal member of the executive council and the adviser too. They made that distinction and that distinction is made in specifically the British Columbia statute. If you have any concern—

**Hon. Mr. McMurtry:** Might I be permitted to finish what I had to say about the British North America Act?

**Mrs. Campbell:** I think, though, that that is a misapprehension on your part as to my position.

**Hon. Mr. McMurtry:** No, the starting point is that section 63 of the British North America Act states that the Attorney General in the province of Ontario shall be a member of the executive council. Then I invite you all to look at section 65 of the BNA Act. It states that "all powers, authorities and functions which under any act of the Parliament of the United Kingdom of Great Britain and Ireland, or the Legislature of Upper Canada, Lower Canada or Canada, were or are, before or at the union, vested in or exercisable by the respective Governors or Lieutenant Governors of those provinces, or with the advice and consent of the respective executive councils thereof."

It seems quite clear to me that the Ontario legislation is framed properly. Under the British North America Act the Lieutenant Governor, as representing the crown, is to act on the advice of the executive council, and in the British North America Act the Attorney General is to be a member of the executive council. I have to simply make the observation that I believe that our Department of Justice Act, where the functions of the Attorney General are described firstly as the law officer of the executive council, is entirely consistent with the British North America Act regardless of what other provincial legislation has to state.

[5:15]

I'm sorry, Mr. Chairman, I'm just trying to reduce the length of my response at the

present time, but I do believe that it would be appropriate for me to make a comment with respect to the proposed amendment to the Discriminatory Business Practices Act. The purpose, and this will be discussed of course in the Legislature, in providing an exemption through the order in council, is that it is the view of most knowledgeable people who have appeared before this justice committee that in this legislation, human rights legislation, we are embarking in relatively different territory. It was the view of some of the people who appeared here, which is accepted by some of my law officers, that quite unwittingly some human rights may well be encroached upon by the legislation as it is presently framed, and that the whole purpose of the exemption section is to provide some relief if it turns out that the legislation is interpreted in such a way as to encroach unfairly on certain individual rights.

That is the purpose for the exemption, and I think that should be clearly understood. Of course together with the exemption is a provision for a tabling of any order in council. But again, this is something we will be discussing later on.

I've discussed Dr. Dan Hill and the terms of reference.

**Mr. Renwick:** When do you expect those terms of reference? When will Dr. Hill be back?

**Hon. Mr. McMurtry:** Dr. Hill will not be back, according to the best information I have, for another 10 days or two weeks, and as soon as Dr. Hill is back, we will be meeting.

**Mr. Renwick:** But it will be some time during November, the latter part of November.

**Hon. Mr. McMurtry:** Yes, that is correct. The matter of the sub judice rule—

**Mrs. Campbell:** Excuse me, are we going to deal with my comments on the Ontario Highway Transport Board?

**Hon. Mr. McMurtry:** I'm trying to recall. I have a note "highway transport board" and I did want to make this comment: I was asked a question as to how did I arrive at my decision. The comment that I noted when Mrs. Campbell was making these remarks was, firstly, it was not my decision. It was a matter that I discussed with the Minister of Transportation and Communications (Mr. Snow), as you know, who has the responsibility for the administration of the highway transport board. I indicated to him that, as I've said in the Legislature, it was a clearly wrong exercise of the chairman's

responsibilities for him to enlist a solicitor for one of the litigants to assist in preparing the judgement, whether it's part of the judgement or the entire judgement, or reasons for judgement as opposed to the judgement itself. I mean it's clearly wrong.

I recommended to the Minister of Transportation and Communications that in the circumstances my view was that the chairman, the new chairman of the highway transport board, should exercise his prerogative under the legislation and order a new hearing of the matter. That apparently has been done and the new chairman has indicated his intention to do that.

On the matter of the investigation and in relation to advising the Minister of Transportation and Communications with respect to this particular decision, if I thought any useful purpose would be served in trying to open up any number of hearings that were held or conducted by that particular chairman, if I could be persuaded that it would be in the public interest to do so, then I would certainly be prepared to take this up with the Minister of Transportation and Communications. I have yet to hear any argument which would suggest that it would be in the public interest to review all these past decisions. Their time limits have expired. If there was any suggestion of any evidence which may reasonably lead to behaviour which would be the subject matter of charges of some kind that would be a different matter, but there's no suggestion of any such evidence.

**Mr. Renwick:** Has any instance been raised, either with you or with your colleague, the Minister of Transportation and Communications, by any unsuccessful applicant?

**Hon. Mr. McMurtry:** No, not to me and to my knowledge not to the Minister of Transportation and Communications.

**Mr. Chairman:** I wonder if I could ask the minister the supplementary that I didn't get to ask in the House today. In your investigation did you at least go through, or have your staff go through, the records of Hansard to at least in a superficial way look at those cases of—what shall we say?—questionable judgements that have been brought up by members of the Legislature, such as Mr. Cunningham and myself and previous transportation critics in the House, to at least see if there might be any possible pattern or any reason to suspect any impropriety or the need for further investigation?

**Hon. Mr. McMurtry:** No, we haven't. We haven't reviewed Hansard and I'm not persuaded that would serve any useful purpose. I think you have to bear in mind that litigants before this board invariably have been represented by experienced counsel or counsel mostly experienced in this field. Mrs. Campbell referred the other day to the clubbish aspect of the board. It seemed apparent to me that if any litigant—and as I say to my knowledge they are invariably represented by counsel—wished to open up any other matter, then of course we'd have to deal with that particular case on its individual merits. As I say, I am yet to be persuaded that it would be in the public interest to conduct some sort of investigation or review of all these decisions.

**Mr. Renwick:** I wonder if the Attorney General might be prepared just to confirm with his colleague and with the board, and advise the committee tomorrow whether or not any unsuccessful applicant or any other person has raised a particular case.

**Hon. Mr. McMurtry:** I will.

**Mr. Renwick:** I know that you have said to your knowledge there hasn't been. I just ask that the check be made because it would most likely go either to your colleague or directly to the board.

**Hon. Mr. McMurtry:** I will do that.

**Mr. Cunningham:** This is a matter that is of concern to me. I must say I am somewhat perplexed at the Attorney General's statement with regard to some discussion he has had with the Minister of Transportation and Communications on this. I know it's Mr. Snow's responsibility to oversee the activities of the board and I don't question that, but I am concerned that you, Mr. Attorney General, are responsible for the administration of justice in the province of Ontario.

From my perspective this is a very strange case. You either have statutes or you don't. In this particular case some serious allegations are being made about some contraventions of statutes—and you know the statutes, specifically sections 18(a) and (b) of the Ontario Highway Transport Board Act. This is a situation that I want to tell you distresses me. We've had the most contentious hearing in the history of that board—a board, I might interject, that is very essential to the operation of an orderly flow of traffic within the province and a board that has had some aspersions cast on it in the past. Probably with that in mind, a select committee was ordered to examine their activities and to look at transportation policy in the province

in general. As I have said before, this was the longest case.

We have a situation, at least as I gather through the press—and I can't doubt what I read in the *Globe and Mail*, and not because it's the *Globe and Mail*—where I read on August 30, and thereafter on August 31, that one of the commissioners was inclined, on the basis of the evidence given, to grant a certificate in this case. Some time thereafter he rather radically changed his mind and signed a report that I don't think he read and certainly had nothing to do with the preparation of, and as we find out thereafter neither did the chairman.

This is a very serious problem. It undermines the integrity of the board; it undermines the integrity of the process. I think it adds credence to the sort of pervasive nature of the attitude that may prevail at that board. It's with that in mind that maybe you won't hear too much from the people who either practise at the board, as we didn't when we were having our select committee hearings, or more important from people who do business at the board.

I'm at a loss as to why you would abrogate your responsibility to the Minister of Transportation and Communications, who may have the responsibility of maintaining some order at that board, but in the light of some rather shocking revelations I would think that you would have ordered an inquiry into this.

The ramifications of this are pretty far-reaching, in my view. I'm not saying for a moment that because there have been some errors in procedure you should grant a licence, either temporary or permanent, for UPS or for anybody else. The taxpayers have been abused in this situation; the respondents certainly have been; and of course the applicants themselves have been abused.

These were expensive hearings. I would suggest that some lawyers have done a great deal of business there and we certainly won't have to have a tag day for too many of them as a result of 56 days of continuous work. It was 110 days and 56,000 pages. This is a big case.

I'm sure you know the events leading up to the revelation of these facts—and I believe them to be factual. I am of the view that Mr. Shoniker at least indicated to Mr. Wardrop, his co-commissioner, that it was government policy; and not only that it was government policy but this was what the Premier (Mr. Davis) wanted. I'll tell you—this is an editorial comment from me—I don't believe the Premier of the province would interfere, not in an OMB hearing, not in a OHTB hearing or not in a liquor licence hearing. I just do



not believe the Premier would do that. Unfortunately, at the time it would appear that Mr. Wardrop did believe that. On that basis and on that basis alone, I believe, he felt justified to sign a report that he had absolutely nothing to do with—in fact a report that I frankly don't think he believed was right.

I'd like to know from you whom you did talk to? Did your people investigate this thoroughly? Have you talked to the applicant? Have you talked to the applicant's lawyers in detail? What kind of investigation has gone on and on what legal basis. I'd like to see this. Have you decided that some action should not be taken?

**Hon. Mr. McMurtry:** I've heard nothing further from you to indicate that we should take any further action. I might just make this one additional comment. Mr. Shoniker, amongst others, was interviewed, and I have no intention of discussing with the members of this committee any investigation of this matter or any of the other thousands of matters that our ministry is involved in. We have to have a certain amount of discretion to exercise in the public interest.

It would be impossible for my law officers to carry out their responsibilities if they were going to be asked exactly what they did in each particular case. I can share with the members of the committee, though: Mr. Shoniker has categorically denied, to a senior law officer of the crown who interviewed him on at least two occasions, that he had at any time indicated to Mr. Wardrop or anybody else that the denial of the licence to UPS was based on government policy. He also categorically denied that at any time had the Premier in any manner whatsoever attempted to indicate to him the decision that would be desirable from the standpoint of the government.

I'm probably not as familiar as some of the members about this table with the day-to-day operation of the Highway Transport Board, and I don't pretend to have any expertise in that respect. But I do know that if the industry itself felt that as a result of this unhappy occurrence some full scale judicial inquiry was warranted, I'm sure they would make their views known.

**Mr. Cunningham:** No, they wouldn't.

**Hon. Mr. McMurtry:** Just let me finish please. I know that the new chairman of the board is very concerned, obviously as he should be, about the credibility of the board. He has made it very clear to the Minister of Transportation and Communications, and also to myself, as I happen to have known

the gentleman—and he's a very able individual—

**Mr. Cunningham:** No question.

**Hon. Mr. McMurtry:** He's concerned about the procedures of the board. He has indicated to us that he intends to review all the procedures of the board in order to establish—maintain or re-establish—the credibility of the board. As the government of Ontario, in making the appointment of Mr. Bruce Alexander obviously we have some confidence in his ability to carry out his responsibilities with integrity and with a great ability. As far as I'm concerned, I have no further role to play at this particular time—unless something is brought to my attention other than the issues that have been raised.

I share the concerns that have been expressed, regardless of the fact that I am satisfied from reports I have that Mr. Shoniker had come to a decision, and wanted assistance in preparing reasons for the decision. Notwithstanding that, the request of a lawyer for one of the principal litigants to assist in drawing up the reasons for a judgement obviously has created an enormous cloud over that board. I regret it just as much as any of the members here, and I'm not trying to justify his conduct for one moment. But I don't think there is any more I can add to what I've already said Mr. Chairman.

**Mr. Cunningham:** I would like to ask you several specific questions and they're very brief. I'd like to put them before you while your staff is here, because I'd like to be satisfied that you have made a full inquiry, albeit it hasn't been public. I'd like to know if Mr. Wardrop was interviewed by your staff.

**Hon. Mr. McMurtry:** Yes, he was.

**Mr. Cunningham:** And, on what occasions. I'd like to know—

**Hon. Mr. McMurtry:** I'll save you your breath with respect to asking all these questions, because I've no intention of going step by step through the investigation.

**Mr. Cunningham:** You'll find I have a lot of breath.

**Hon. Mr. McMurtry:** Fine, I have a lot of patience, I'll stay here, but I have just given you advance warning that I have no intention of dealing step by step with what senior officers of the crown have done in relation to all the details, and what was said by this person or that person. As I say, it would not be in the public interest for the law officers of the crown, through the minister or anyone else, to have to justify their conduct on a day-to-day basis—

**Mr. Cunningham:** I'll accept that.

**Hon. Mr. McMurtry:** —unless there are some more serious allegations made in relation to their conduct as opposed to someone else's conduct.

**Mr. Cunningham:** I would like to ask if they interviewed the United Parcel Services president?

**Hon. Mr. McMurtry:** No, I can tell you I don't mind answering that. To my knowledge, no. I can tell you also, if you want to talk about the United Parcel Services president, following up our little exchange in the Legislature, I found his press release which you provided me with very disturbing. You were commenting on the basis of his press release when we had the mini-session in September. I believe that that press release was totally misleading, whether it was deliberate or otherwise.

When I stated that this matter was before the courts, I must admit I still feel disturbed that you would somehow take the position that the matter is not before the courts when there is an application clearly pending before the divisional court. I took the trouble to get copies of all the documents and to forward them to you.

**Mr. Cunningham:** Yes, I appreciated it.

**Hon. Mr. McMurtry:** For the president to state that this matter was not before the courts because it was an application for review and that because they weren't physically in court before the judge that this meant that they were not before the courts, I have to say that I question the responsibility of that position.

**Mr. Cunningham:** No, they took it as I took it. You left the inference that the matter was sub judice and on that matter I guess we respectfully disagree as to what is and what is not sub judice.

**Hon. Mr. McMurtry:** I guess we certainly do.

**Mr. Cunningham:** I'm afraid that I may be somewhat impaired here in so far as I am not a lawyer, but I would hope that that shouldn't limit me from making my comment.

**Hon. Mr. McMurtry:** Absolutely not.

**Mr. Cunningham:** If you, as the Attorney General, are saying that an application for a delay, pursuant to section 42 of the Judicature Act, constitutes the doctrine of sub judice, then I respectfully say that I think you are very wrong. That was the matter that was before the court. There was no case before the court. There was nothing that could be prejudiced in any way.

**Hon. Mr. McMurtry:** You are totally uninformed. If you had shown those documents as of that date to the lawyers of your caucus, two of whom are here at the moment, I would be interested as to whether they would share your view that that was not a matter pending before the courts.

**Mr. Cunningham:** An application under section 42? You regard that to be sub judice? They were asking for a delay in their option.

**Hon. Mr. McMurtry:** I'm not interested in your impression. What I am interested in is the facts.

**Mr. Cunningham:** Those are the facts.

**Hon. Mr. McMurtry:** The facts are clearly stated, if you would take the trouble, before making these statements, of showing these documents to your colleagues who are lawyers. I realize that when you are not a lawyer some of these matters are a little confusing but I sent you over a whole bundle of documents.

**Mr. Renwick:** Perhaps Mr. Cunningham will allow me to try to help him for a moment.

**Mr. Cunningham:** Yes, I will. Because I have discussed it with Mr. Renwick, I will cede to him.

**Mr. Renwick:** I don't think the question was ever in dispute in Mr. Cunningham's mind or in the Attorney General's mind that obviously it was a matter pending before the court, because the papers were there and there was an application for it. The fundamental question, of course, is whether or not the rule of the House that would preclude the matter being debated was covered by the fact that there was a technical application with respect to time matters, and whether or not that is a sufficient reason for precluding discussion in the House. That's what is at the core of all of the discussions that took place.

I'm hopeful that the procedural affairs committee will get to the goddam—excuse me—root of this problem, because I find it extremely difficult to have the Attorney General on what I would call such technical ground. In other words, it was an application before the court for a time consideration. It had nothing to do with the substance of the matter.

**Hon. Mr. McMurtry:** It was more than that; I'm sorry, I disagree with you there.

**Mr. Renwick:** I sat in the House today while the Minister of Community and Social Services (Mr. Norton) made a very lengthy statement about matters which are

pending before the court, before Mr. Justice Pennell—at great length—where a deputy minister of the crown and others are being charged with contempt and other matters. I'm not talking about the merits one way or the other of the discussion, I just find it a strange anomaly that we have that kind of serious matter brought before the assembly by a minister of the crown in a very full statement and the sub judice rule doesn't appear to be of any significance whatsoever. When a member of the opposition raises a question, instead of saying, "Of course, the matter is sub judice in the sense that there's an application for postponement" or delay or whatever else you want about it, you might say, "But I'm prepared to answer because I, the Attorney General, do not consider that that particular application is something which should preclude debate in the House." I could go on at some length but that's the guts of the question. You're precluding debate in the Legislative Assembly of Ontario about matters of public importance when you play, if I may use the colloquial term, fast and loose with the sub judice rule.

**Mrs. Campbell:** Exactly.

**Hon. Mr. McMurtry:** I'd like to turn to the sub judice rule because I have to take issue with what you've said, Mr. Renwick.

First of all, there was more than a matter of just a time delay—I haven't seen those papers for some time—but clearly more than that matter. And the sub judice rule was not formulated by the government. It is a very broad rule, and the interpretation is clear.

I have to tell you this. As someone who has only been in the Legislature for three

years, and you and some others have been here for many more years, there is a perception outside the Legislature that we, in this House, are very insensitive about the rights of individuals because of the immunity that we enjoy in the statements that are made in the Legislature.

**Mr. Renwick:** Believe me, nothing that I said would lend any credence to that—

**Hon. Mr. McMurtry:** No, but I'm just saying that when you talk about this use of the sub judice rule, I'd just like to make the point that I didn't frame it, nor did the government frame it.

**Mrs. Campbell:** You interpreted it, that's the problem.

**Hon. Mr. McMurtry:** Interpreted it? If you've read the rule, with respect, you'll know that it's not a difficult rule to interpret in its present form.

**Mrs. Campbell:** Why was it so easy for the Minister of Community and Social Services to get into it today? Wasn't that a matter before the courts?

**Mr. Chairman:** Order.

**Hon. Mr. McMurtry:** He was introducing legislation.

**Mrs. Campbell:** So, if you're introducing legislation that's different?

**Hon. Mr. McMurtry:** Read the rule some day.

**Mrs. Campbell:** I have read the rule; I read it into the record.

**Mr. Chairman:** We have a vote. I'll acknowledge a motion to move adjournment.

On motion by Hon. Mr. McMurtry, the committee adjourned at 5:43 p.m.



## CONTENTS

---

**Thursday, October 26, 1978**

Law officer of the Crown program .....	J-293
Adjournment .....	J-308

## SPEAKERS IN THIS ISSUE

---

Bolan, M. (Nipissing L)  
 Campbell, M. (St. George L)  
 Cunningham, E. (Wentworth North L)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P.; Acting Chairman (Humber PC)  
 McMurtry, Hon. R.; Attorney General, Acting Solicitor General (Eglinton PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Reid, T. P. (Rainy River L)  
 Renwick, J. A. (Riverdale NDP)  
 Ziemba, E. (High Park-Swansea NDP)

**From the Ministry of the Attorney General:**  
 Leal, H. A., Deputy Attorney General





# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

**Administration of Justice Committee**  
Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**  
Friday, October 27, 1978

Speaker: Honourable John E. Stokes  
Clerk: Roderick Lewis, QC



## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

FRIDAY, OCTOBER 27, 1978

The committee met at 11:27 a.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1301, law officer of the crown program; item 1, Attorney General:

**Hon. Mr. McMurtry:** Mr. Chairman, I think when we broke off yesterday, we were engaged in somewhat of a lively discussion in relation to the sub judice rule.

**Mrs. Campbell:** We didn't get to that. I thought we were doing the UPS.

**Hon. Mr. McMurtry:** I thought there was discussion towards the end and I will go back to UPS if anybody wants me to but I wanted to deal with sub judice.

I just wanted to make several observations, the first of which is that I think all members of the Legislature would agree that we do not want to create or perpetuate an impression that has occasionally been created that we are insensitive as members of the Legislature to the rights of individuals in the community in relation to what we say in the Legislature, protected as we are from any civil redress. I think that as we approach the problem of the sub judice rule we should always demonstrate our sensitivity, which I know the Legislature possesses, with respect to individual rights in this respect.

Of course these rights are of particular importance when there is a matter pending before the courts. I want to make it clear that as Attorney General I do not seek in any way or would not recommend that debate on matters of public importance be unnecessarily circumscribed or inhibited by reason that there may be some court proceedings relating to these matters. Obviously the underlying principles generally have to be based to some extent on good common sense, and that is probably a pretty good starting point.

[11:30]

Rule 16 as I read it is very broad and really all-encompassing. As the members know, it refers "to any matter that is pending in a court or before a judge for judicial determination." Then it goes on to talk about tribunals. It is difficult for me to imagine

broader language than the language that is employed in that particular rule, which in my view is very restrictive.

It may well be that the time has come, as suggested by other members, to take another look at that rule. The members of the House of Commons in Great Britain and in Canada's federal House have done this relatively recently and there are two very extensive reports that have emanated as a result. I know many members will be familiar with those reports. The material contained therein is very relevant to our problem.

Again I am speaking personally; I have not discussed this with my cabinet colleagues so my views must of course be accepted for what they are worth as personal views. I draw the members' attention to—

**Mrs. Campbell:** Excuse me. Can I take it they are personal as opposed to the views of the Attorney General of the province?

**Hon. Mr. McMurtry:** No. When I am expressing my views I can't separate my personal function from that of my office. I just draw to the members' attention that there is nowhere in rule 16 any mention of the issue of prejudice. Obviously the sub judice rule has been framed in order to avoid any unfair prejudice accruing to an individual who is appearing before a court. The rule doesn't mention that, so as the rule stands at present it is not an issue of prejudice or not; it is only an issue as to whether it is before the courts.

Those who are responsible for drafting this rule may have felt that the inclusion of the word "prejudice" would make it very complicated for the Speaker or the members to really make that judgement as to when there was prejudice and when there wasn't, and therefore preferred to frame the rule in the broadest possible terms. I don't know whether that was contemplated or not. Obviously there are two issues and it may be that in looking at the rule the members of the procedural affairs committee will want to look at the issue of prejudice. Maybe that is a matter that in my view has to be considered in what may be a more appropriate rule.

I want to make it clear to the members of this committee and through them to the members of the Legislature that I personally,

as Attorney General, welcome any review and therefore possible revision of this rule. As a member of the Legislature I appreciate the public importance that is involved in a full and free discussion of matters of public interest. My underlying principle here is that this should not be circumscribed unless there is a possibility of not only the reality of prejudice to someone before the courts, but I think we would agree that even the appearance of possible prejudice must be of concern to us because that is fundamental to the administration of justice—not only the reality of justice but the appearance of justice. I don't think there is anything more I can say in relation to this rule, other than that I welcome a review of it.

**Mrs. Campbell:** Could I at this point put some questions? I think what is disturbing me and others is the fact that the rules seem to apply in a very strange fashion. I did draw the Attorney General's attention to certain specific examples where it seems that ministers may go and make statements to the press about an issue which is precluded from discussion in the House. That doesn't make any sense to me at all. I know of absolutely no rule that applies the sub judice rule in uneven terms.

**Hon. Mr. McMurtry:** Could I respond to that before you go on to your next question, Mrs. Campbell? My response would be that if a minister does that, he is more vulnerable outside the House than inside the House. At least in the House the members enjoy certain immunity from the civil process; a minister who makes a statement to the press outside the House does not enjoy any such privilege. That's why the rule is related to conduct within the House. The member or minister outside the House may very well find himself in the position where he is cited for contempt of court.

So there are remedies, and perhaps much harsher remedies available for a litigant; for example, a litigant who is before the courts and feels that his trial may be prejudiced by a statement made by any member of the Legislature outside of the House has a remedy whereby he can request directly or through counsel that that individual be cited for contempt. The remedy is there.

I don't pretend to know the whole historical basis for this rule, but I think the reason is that within the House there are certain immunities, and in order to prevent these privileges from being abused, the House itself has very wisely adopted, as have legislatures everywhere in the free world to my knowledge, this sub judice rule.

**Mrs. Campbell:** Did the Attorney General have the opportunity to look at Hansard to study the statements made in the House by the Minister of Community and Social Services (Mr. Norton) yesterday? I referred him to it at the end of the meeting. I would like to say, lest the member for Lakeshore (Mr. Lawlor) jump upon me again, that I believe the action taken by that minister was an act of courage, and I salute him. I am, however, concerned that he was permitted to continue to go into facts in a matter which is, as I understand it, before the courts. I would wonder what the position of the opposition would be in questioning anything pertaining to that statement. It is this kind of thing that I am disturbed about.

In so far as the so-called "Kerr" issue is concerned—

**Hon. Mr. McMurtry:** Could I respond to the Norton statement first while the matter is fresh in my mind? There are several issues there. I have to say that I have not had an opportunity to review Hansard. I have asked for a copy of Mr. Norton's statement because I only heard part of it in the Legislature yesterday. I had a speaking engagement last night, and I haven't had an opportunity to pursue it.

I would remind the members that there was no objection from any members of the House to Mr. Norton. Obviously the members of the Legislature are as responsible as anybody else for invoking the rule in the public interest when they think it has been breached. So I would assume that the silence, particularly from the opposition benches, resulted from the fact that the opposition were not of the view that the rule was being breached, because if they were of the view, then in my view, with all due respect, the opposition had a responsibility to object.

For example, I can recall a statement I was making myself, and I can't recall the specific issue, but I remember the member for Riverdale (Mr. Renwick) invoked the rule during my ministerial statement and said that the matter was before the courts and that I was touching on it. Quite frankly I don't think I necessarily agreed, but I circumscribed my statement because that was his view and I respect his view. I just cite that as an example where, without waiting for a ruling from the Speaker—because it is very difficult for the Speaker to be asked to make a judgement in these cases, as you indicated from what you read into the record the other day—in that particular case the member for Riverdale objected and without asking for a ruling it seemed to me that the sensible course was not to pursue the matter.



I would have assumed, without having heard all of Mr. Norton's statement yesterday, that if any of the members opposite felt that that rule was being breached, they had a responsibility to make that observation.

But there is yet another issue that may arise, and it is a very difficult issue and I don't pretend to know the answer to it, and that is, it is quite conceivable that there may be a matter before the courts whereby the Legislature wishes to introduce legislation. For example, there is a case that I recall some time ago involving an injunction that was granted by the courts—and I'll get the name of the case for you later if you are interested—and the government of the day in its wisdom, or otherwise, decided it was in the public interest to dissolve that injunction and introduced legislation for that purpose. Obviously, that clearly involved a matter that was then before the courts.

I mention that case because, without knowing all of the details of my colleague's statement, obviously in his view—and the member for St. George has acknowledged his courage in attacking this issue head on—it may have been impossible for him to have dealt with the matter and introduced legislation without touching on something that was before the courts. As I say, I don't know, but I think this is a problem that will have to be considered by any committee that is reviewing the whole rule.

**Mr. Leal:** It was the Kalamazoo Vegetable Parchment Company case at Espanola to which the minister has just referred, the paper mill there, where the injunction was granted by the court; that was being appealed, and the Legislature intervened to dissolve the injunction and to refer the matter of arbitration of the damages and the assessment of compensation to an arbitration board under the Ontario Lakes and Rivers Improvement Act.

**Mrs. Campbell:** That was really a part of my concern, and I referred specifically to the Browndale issue and I referred to the Kerr issue, where it seemed quite inappropriate—and I do want to make it clear that vis-à-vis a person occupying a position, I have no desire to involve that person in any way further. I think flowing out of the situation there are some matters which really do need to be considered as to the conduct of the Attorney General, and other matters. [11:45]

But again we see that, in fact, the embarrassment in the one case was really caused by ministers of the crown exposing certain matters publicly, and then the sub judice rule being invoked to preclude discussion

by members of the opposition. It is this kind of thing that I think makes the rule to be brought into question even more.

I have a deep concern in those cases where the minister has been advised in advance that he should not properly or appropriately answer certain questions and he refuses. I quite understand that if you take legal advice you'd better stick with it, but both publicly and privately this was the position of the minister in the Browndale matter. Then, presumably under the same working rules, a public statement is made to the press. This kind of thing is causing me the greatest of concern.

**Hon. Mr. McMurtry:** First of all, in relation to the Kerr matter, I'll just again repeat what I've already said on this matter. Mr. Kerr's intervention was inextricably bound up with an issue that may be before the court. This is why one cannot separate that off and, of course, one has to look at each individual case. As the members will discover in the very near future, there was, in my view, a very good reason for the position that I adopted in relation to the trial of Mr. Harrison and to the creation of any possible prejudice or the appearance of prejudice to Mr. Harrison's trial.

With respect to other cases I should like to make the general observation that ministers of the crown, for the most part, are not legally trained.

**Mrs. Campbell:** In this case, they were. That's the unfortunate part.

**Hon. Mr. McMurtry:** And even if they are legally trained, as in the Browndale case where the minister is a lawyer, they themselves are not going to be familiar with the prosecution.

The minister involved would not have any familiarity with the nature of the prosecution and, in that particular case, it's a very complex matter. He simply received advice from senior law officers of the crown who were responsible for the prosecution and responsible for maintaining the integrity of the prosecution that he really should not engage in a discussion. He accepted that advice quite properly. It was a case where this whole problem was highlighted because there was clearly a serious issue before the courts, serious criminal charges had been laid.

On the other hand, there was also obviously a matter of some considerable public importance in relation to the operation of Browndale. So the two problems certainly met head on in that case. What we did in that case, and what I did, was request the senior law officers of the crown who were

in charge of the prosecution to review the matter carefully, because they look at it from the standpoint of the prosecution, and assist us as to what could be discussed in the House without possibly prejudicing the trial.

I can tell you from my personal experience that this can be a very complicated matter and a very hazardous matter for them to make this sort of judgement. But in that particular case there was an effort made to try to separate it out in order that there might be some reasonable discussion of the operation of Browndale. I think the law officers of the crown went to great lengths to try to assist the Legislature in that respect. The minister involved was simply abiding by the legal advice that he was receiving.

**Mrs. Campbell:** I don't question that at all. The thing is, at what point did the advice change?

**Hon. Mr. McMurtry:** The advice didn't change, the advice remained the same; it was a question I suppose of refining the issue and attempting to separate out what might be discussed and what might not be. The law officers of the crown are responsible for the case, so the prosecution of the case would obviously be concerned. Their prime responsibility is the prosecution. Their advice was of course that they didn't want it to be discussed at all for fear of interfering with the prosecution. When it was pointed out to them that it was important that some of these issues be discussed in the legislation relating to Browndale, they reviewed the matter to see what might be discussed and what might not be. But I have to say that in my view their opinion did not change at all; their basic opinion was the same, but they simply were asked to look into the matter from another perspective and to assist the Legislature.

**Mrs. Campbell:** I don't want to labour it except that what I'm trying to say is this: I have no quarrel with the minister accepting the advice of the law officers of the crown. I was of the opinion that there was an error, but that's only my opinion. But that discussion was precluded—anything with reference to the new contractual arrangements. As I understood it, the minister was still bound by that, until I read his discussion in the newspaper of the new contract, and that is what I was referring to. As far as I knew, the circumstances did remain the same; if there has been a change in circumstances, I'm not aware of it. But this is the kind of thing that puts the whole matter into disrepute.

**Hon. Mr. McMurtry:** Of course I can't accept for one moment that the whole matter has been put into disrepute at all; I think really quite to the contrary, a great deal of responsibility has been demonstrated. I think what we have to recognize is that the matter is a very complicated and a very complex issue, as I'm sure we all do, and attempt to see if we can't devise better rules to avoid the feeling harboured by any members that there is an unfair or unreasonable restriction on the full and free discussion of issues of public importance.

**Mrs. Campbell:** I'm sure, Mr. Chairman, the Attorney General realizes that in placing questions to him yesterday I was seeking to have some definition from the Attorney General as to his position on this rule. It was interesting to me that with reference to the questions put, the Attorney General did not seek the solution of the sub judice rule in those questions. So I take it that from his point of view at least, the questions posed were not within the sub judice rule.

**Hon. Mr. McMurtry:** Well now, I'm not acknowledging that. I thought some of the questions were, quite frankly, but I'd have to look at the questions again. As I recall the question, it seemed to me that we were coming squarely within that rule and that is why I declined to discuss the matter further. But as I say, we'll have an opportunity of discussing that issue I'm sure at greater length later on.

The next issue I wanted to deal with I think was raised by both Mrs. Campbell and Mr. Lawlor—the issue of one person, as opposed to one man or woman, holding the offices of Attorney General and Solicitor General and the position adopted by the leader of the official opposition (Mr. S. Smith).

**Mrs. Campbell:** And of the government in 1972.

**Hon. Mr. McMurtry:** I just wanted to say briefly that I disagree with the position of the Leader of the Opposition. I see no conflict in my roles. I can see arguments for separating the two functions as the government in 1972 saw. I would just like to make this observation, that in reviewing the Hansard debates at that time, as I have, it was interesting to note that both opposition parties disagreed with the government.

**Mrs. Campbell:** Precisely. Now you find them to be right.

**Hon. Mr. McMurtry:** So I'm curious as to the sincerity. I wonder a little bit about the sincerity of the opposition parties in taking a very strong position in 1972 that the offices

should be combined, and what has developed in five years to make both opposition parties change their minds.

**Mrs. Campbell:** And the government.

**Hon. Mr. McMurtry:** The government hasn't changed its mind. I can only assume it is the excellent performances of the Solicitor General during that five-year period—

**Mrs. Campbell:** Take a bow, John.

**Hon. Mr. McMurtry:**—which led the opposition parties to change their minds. I would certainly agree that the performance by all the Solicitors General during that period of time has been excellent.

**Mr. Chairman:** Of course there's always the possibility that it takes five years of incubation for an idea to work on the government.

**Hon. Mr. McMurtry:** It wasn't a new issue in 1972, so it wasn't as if the opposition parties hadn't the chance—you know, there's a certain element of sadness about the discussion because one of the opposition members who spoke very articulately was the late Jim Bulbrook. I've read his contribution to the debate. He made a very persuasive argument that the senior law officer of the crown must be accountable for the conduct of the police in the province, as this was an integral part of his responsibility in relation to the administration of justice. Therefore in order to maintain this accountability the only proper way to maintain it was to have the roles combined in the same job. The member for Riverdale made, as I recall, a very similar well-articulated submission to the Legislature.

Whereas I don't intend to prolong the debate because, who knows, I may not even be Solicitor General when we resume next week—I don't want it to be thought that I have any desire to cling to both jobs; I simply await the pleasure of the Premier of Ontario (Mr. Davis)—I just want to make it clear that if I saw any basic conflict, and if there was a conflict so as to make it difficult for me to carry out my responsibilities as the senior law officer of the crown, I would not have accepted the second responsibility, temporarily or otherwise, but I see no basic conflict. I just wanted to make that point.

**Mrs. Campbell:** Do you think it might be possible that we could review at least the title of this office and make it more real in Canadian terms?

**Hon. Mr. McMurtry:** I think it is confusing and whether we change it to make it the minister of the home office it would still be confusing. I don't think that makes much sense.

[12:00]

**Mrs. Campbell:** I don't think that would help.

**Mr. Lawlor:** We have this joke: Who wants to be the Lord Chancellor?

**Hon. Mr. McMurtry:** Yes, if you can make me Lord Chancellor I will—

**Mr. Lawlor:** The government is so influential, you see, nowadays—I'm told from the press I don't believe it personally—that we constitute a senate in the province of Ontario, in order to do it.

**Hon. Mr. McMurtry:** I think we have the germs of a very sensible suggestion.

Interjections.

**Hon. Mr. McMurtry:** I mean an upper House in Ontario. The opposition parties would be represented on some reasonable basis, I think—

**Mrs. Campbell:** Twenty to one.

(Laughter)

**Mr. MacBeth:** They qualify more as senators than they do as MPPs.

**Mr. Cureatz:** Just like the Senate in Ottawa would be nicely represented in that fashion.

**Mr. Chairman:** If it were introduced at the same time as the sunset law came in, then it might be quite appropriate. We could take care of one problem at the same time as we're taking care of another.

**Hon. Mr. McMurtry:** It is a little confusing to the public. The Attorney General in most other provinces is responsible for the police. We are looking at other provincial legislation in the other context and John MacBeth and I will know how often mail came to one of us that should have gone to the other. It certainly has been a little confusing. In any event, we will await the pleasure of the Premier in that respect.

I would make the further observation that the responsibilities of the Solicitor General in Ontario are very interesting responsibilities. I'm not reluctant to attempt to discharge those responsibilities enthusiastically as long as I have that responsibility.

**Mr. Lawlor:** You will also take a look at the fairly recent Hansards as to what the critique of that office has been. I think on all sides—at least in the opposition—the basic one being what we consider a fairly fundamental breach between the OPP and your immediate functions in relation to them and the metropolitan police forces and municipal police forces in Ontario. We don't feel the liaisons are very good or very reaching in terms of uniformity, in terms of standards. That's where we think you have a greater role. We can't rehearse on this occasion the



Solicitor General. I just say take a look at that debate, it wasn't bad.

**Hon. Mr. McMurtry:** I will. That's a very interesting suggestion. As Attorney General I have to tell you I'm very concerned and I must be concerned with the quality of liaison between the police forces in this province. I have spent considerable time with the major police forces in this province and the RCMP in assuring that the proper liaison be maintained. This is something that John MacBeth and I worked on together at a number of meetings when he was Solicitor General, because obviously the responsibilities overlap and a number of these matters must be dealt with by both the Solicitor General and the Attorney General.

In relation to the fight against criminal activity this type of liaison is of paramount importance, and in many other areas as well, in relation to standards and conduct and training; we're very concerned about that.

The Justice secretariat; I had written a few notes in relation to that.

**Mrs. Campbell:** I thought you had.

**Hon. Mr. McMurtry:** I want to make it very clear that at no time has the Justice secretariat diminished the role of the Attorney General in the province of Ontario. With all due respect to the Justice secretariat, the term "Minister of Justice" is not appropriate for that secretariat. The actual job title is, of course, the Provincial Secretary for Justice. I don't want to create the impression that I have any propriety in the title Minister of Justice; obviously every minister of the crown wants to be to some extent a Minister of Justice in carrying out his responsibilities. In my view, the role of the Attorney General in Ontario is essentially that of a Minister of Justice as well as an Attorney General and the role of the Justice secretariat is a co-ordinating role. I think the policy branches of the executive council are very important.

It's helpful I think, and some Provincial Secretaries for Justice have held other portfolios. Mr. MacBeth held both that responsibility and that of—

**Mrs. Campbell:** Mr. Welch too.

**Hon. Mr. McMurtry:** —the Solicitor General. Certainly I saw no problems. The importance of the ministers in that particular policy field meeting together under the chairmanship of the Provincial Secretary for Justice makes good sense. I don't think any of us should get too hung up on titles. I think the co-ordination of the policy fields is important because, obviously, government has enormous responsibility and a lot of this

responsibility is discharged by relatively few people. If I may be permitted an aside, I won't talk about George Grant, but I'll talk about another distinguished academic whose name I forget—and I don't think it's worth remembering—who is from one of the universities. He wrote an article in the *Toronto Daily Star*—

**Mrs. Campbell:** He's an extinguished academic.

**Hon. Mr. McMurtry:** —during the past week which suggested that the number of elected individuals across the country should be reduced by a third. That was the solution to some of the problems of big government. I just want to say to my colleagues I never read such absolute uninformed and total nonsense. If the children of our country are the recipients of that sort of hogwash, then as a parent of six one has to worry.

Never mind the responsibilities of cabinet ministers, just look at the responsibilities of the 125 members of the Legislature in overseeing a government of 8.5 million people with a civil service of 70,000 or 80,000 people. Anybody who suggests that two-thirds of that number or half that number would be able to discharge their political responsibilities more effectively is just living in another world. I'm not too sure how this relates to the Justice secretariat.

**Mrs. Campbell:** And that is your riding.

**Hon. Mr. McMurtry:** But I think it relates just as much as the reference to the saint—what was it, St. Simon?

**Mr. Chairman:** I have a feeling that if you were to ask for a vote on it, nobody would challenge whether it was in order or out of order. Your sentiments might pass unanimously.

**Hon. Mr. McMurtry:** I guess the point I was trying to make is that because of the enormous workload that must fall on the executive council to divide it into policy fields, including a Justice policy field, makes good sense. I'll certainly read with interest the contributions of the members in relation to the Justice secretariat. But I want to go on record as saying it makes great sense having a Justice policy field, like our other fields, Resources and Social Development. Nothing has resulted from the creation of policy fields to give me any difficulty or apprehension in relation to what my role should be. If the members feel at any time that I am not discharging my role properly, I can assure you it is not the fault of the Justice policy secretariat, it's my own fault.

**Mr. Lawlor:** My impression is the extent to which you attend meetings of the secretariat is not a really significant concern central to your life. Does your deputy very often function in your place instead? How seriously do you take it?

**Hon. Mr. McMurtry:** I take it very seriously, because the activities of the other ministries in the Justice policy field do touch directly on occasion, and usually indirectly, on my responsibilities as Attorney General. The Justice policy field meets, generally speaking, on a weekly basis and in my view, those meetings are important. The ministers and the deputy ministers are usually in attendance together with other senior advisers. In the Justice policy field there are a number of issues that come up every week that overlap and I regard this particular function as an important effective role.

**Mr. Lawlor:** Really useful to you?

**Hon. Mr. McMurtry:** Yes, because one of the responsibilities of the Justice or any policy secretariat is to have a good look at legislation before it comes to cabinet. Obviously, there is legislation being prepared by ministers in that field, and it is helpful and very useful to review it in the policy field first. As the Attorney General, I find with any legislation for which I'm responsible it's very helpful to have this legislation in the form of a policy submission to the Justice policy field first. I believe sincerely that I can benefit from the wisdom of my colleagues in that field, just as I like to think that they, on occasion, can benefit from my wisdom in relation to policy submissions that come to the field before going to cabinet.

**Mr. Lawlor:** But the chief purpose of your liaison is not to use that secretariat as a sounding board, although that's part of it. I would think equally important would be what's fed to you with respect to the correctional institutions in this province, people sitting in jail waiting for trial, the whole police apparatus, the commercial elements of corporations and the running of various schemes. One of my objections is what I consider looseness at the level of the secretariat. Things are not tied together. As I see legislation, you are all living in your own little worlds and the interleaving of those worlds, which is the nature of that out there, is not sufficiently taken. The whole purpose and justification of having that secretariat is precisely to do this, and very seldom do I see legislation crossing fields emanating from this House.

[12:15]

**Mrs. Campbell:** You'll see it on Monday with the new rent review matters, where you have both the Ministry of Consumer and Commercial Affairs and the Attorney General's office. That's the first time I've really seen that happen, I think.

**Hon. Mr. McMurtry:** That's in effect where there's actually a transfer really of responsibility for the administration of residential tenancies in that legislation. And, of course, our Provincial Offences Act which has been introduced touches on the Solicitor General's responsibility to a very great extent. There is other legislation where there isn't perhaps a direct relationship, but there is a relationship.

As Mr. Lawlor pointed out, there are crucial issues to be discussed on a day-to-day basis such as policing—under the Solicitor General, but it affects the Attorney General—such as in relation to people in custody awaiting trial. Those are issues that have to be discussed frequently on an interministerial basis and it's very helpful to have a formal structure which brings the ministers together at least once a week for that particular purpose.

At the same time, I would be the first one to concede that one of the great problems of government today is the whole business of communication, because of the vastness of the responsibility. The problem stems largely from the fact that there are only 24 hours in a day and there are few opportunities, regardless of how carefully you attempt to structure it, for people to meet as often as we would like to meet. It's an ongoing problem, there's no question about it.

There's no doubt but there are occasions when I am sure it would appear that in initiatives in one part of the government there hasn't been perhaps as much co-ordination or communication with another branch of the government that is involved. Certainly that happens from time to time. It is to be avoided but it would be foolish of me to attempt to pretend that it didn't happen. So, as communication is an ongoing problem for any government anywhere, I think the policy fields, including the Justice policy field, do play an important role in assisting in the communication process.

**Mr. Lawlor:** Maybe at some future time—this year's estimates on the secretariat will be coming forward before Christmas, I trust, although I doubt it—

**Hon. Mr. McMurtry:** That's up to the House leaders.

**Mr. Lawlor:** On some occasion perhaps we could have all the ministers present at

once for the estimates, at least for a set and limited period of time, to get the trading of notes. You know, the Liberal critic last year wouldn't participate in the estimates at all because he said they were—one of my favourite words—negatory, they were useless, they didn't lead to anything, and so he simply withdrew. We can't have that kind of thing—members, particularly those in positions of responsibility, taking a stand because they on their own bona fides believe that there's nothing to be gained, that the whole process is inefficacious. That's some of the impression that we on this side of the fence seem to have, and we should be reassured on that. That's why I'm spending a little more time than usual on this.

**Hon. Mr. McMurtry:** Well, I have no objection. I appreciate that we are dealing with the Attorney General's estimates, not the Justice secretariat, but I have no reluctance to discuss any of these matters if they are of interest, because they obviously relate directly to the discharge of my responsibilities on a week by week basis.

**Mrs. Campbell:** The Attorney General has touched on the matter of legislation. Am I wrong, but are there not two types of legislation that should flow from the Attorney General, one of which is obviously to express government policy in certain areas? The other is where the Attorney General must be unfettered, where in the opinion of the Attorney General there are serious inequities which should be addressed for the protection of the rights of the individual. Does that kind of thing take place as part of a policy discussion?

**Hon. Mr. McMurtry:** Yes, it should take place. One of the vehicles whereby it does take place, but as I say it doesn't always necessarily happen, even though it should take place, is in relation to the legal services throughout the government. As you know—and we will be dealing with this in estimates later on—under our whole program of common legal services, with the exception of the lawyers who are associated with the Ontario Securities Commission, to my knowledge all other lawyers are employees of the Ministry of the Attorney General and ultimately responsible to the ministry and to the Attorney General.

This is one vehicle or one apparatus which is supposed to assist in alerting the Attorney General and his or her senior law officers of the crown with respect to any legislation that emanates from any other ministry which may encroach unreasonably or unfairly on individual rights. I agree most emphatically with what I think is implicit in the mem-

ber's question, that the Attorney General does have an overriding responsibility in relation to all government legislation to see that it doesn't treat individuals unfairly or represent an unfair encroachment on the rights of the individual. Obviously that is a monumental task, given the volume of government legislation that is churned out every year. There may be occasions where our responsibilities in that respect are not discharged totally satisfactorily, but I acknowledge the responsibility clearly is that of the Attorney General.

**Mrs. Campbell:** When you have a provision in the regulation which is patently discriminatory, then I take it that that should be drawn to your attention, having been first drawn to the attention of the minister involved.

**Hon. Mr. McMurtry:** It should be drawn to my attention but whether it is necessarily done, I don't know. In my view, that is the responsibility of any law officer of the crown whether they work directly in the Ministry of the Attorney General or are seconded to another ministry. There are obviously practical human problems in relation to the discharge of this responsibility. Someone who has worked as a lawyer with a particular ministry on a day-to-day basis naturally feels some degree of loyalty to that ministry. I suppose it's always awkward for them when there appears to be a conflict between what appears to be a reasonable goal of the particular ministry and knowing that that might cause some concern in the ministry of the Attorney General. Somebody placed in that position is not in a very enviable position. But notwithstanding, in my view they have a responsibility to alert their own ministry as well as the ministry of the Attorney General.

**Mrs. Campbell:** I'm delighted to have that clarification, because I have erred certainly in dealing with the ministry per se on a matter which is of great concern to me, and, as I say, a patent discrimination. I will be happy to submit my position to you, sir, prior to taking it, as I had intended to do, to the procedural affairs committee.

**Hon. Mr. McMurtry:** I'm fully cognizant of the fact that by clarifying the situation that I am probably going to be the recipient of many more questions in the Legislature.

**Mrs. Campbell:** Well, this isn't in the Legislature.

**Hon. Mr. McMurtry:** Well—regulations and otherwise, I accept that because I see that as part of the overall responsibility of the Attorney General and his ministry.



Mrs. Campbell: We are ad idem.

Mr. Chairman: Is it the understanding of the two critics and the minister that we may go until 1 o'clock? Is that your understanding?

Mrs. Campbell: I think so.

Hon. Mr. McMurtry: Fine.

I hadn't intended to say anything further about the role of the Attorney General vis-à-vis the Justice secretariat, unless there was something else.

I'll turn now briefly to some of the comments of Mr. Lawlor. I won't attempt to engage in a philosophical discussion with Mr. Lawlor, simply because I don't feel sufficiently well equipped in that area to engage in particularly meaningful dialogue. Generally speaking there may be certain issues as they relate to the administration of justice on which I would welcome further discussion.

Mr. Lawlor: May I just comment a bit? That's just a narcissistic form of self-indulgence that I go through once in a while in order to keep myself alive.

Mr. Renwick: It has been recently established in psychiatry that narcissism reappears in the 50s in most men's lives.

Mr. Lawlor: Yes, that's right. Although it's imbedded and implicitly present from birth.

Hon. Mr. McMurtry: Mr. Lawlor expressed his principal concern in relation to the case-flow management aspects and responsibilities of the ministry, and I know that we'll be dealing with these items as we review specific votes in the estimates. But, it might be appropriate for me to engage in at least a brief overview of the day-to-day problem of case-flow management. It obviously is one of the most significant problems, and I'm sure it always will be, facing any Attorney General at any given time. One only has to look at earliest recorded history to know that the law's delays were a problem that faced troubled people in public life. So I don't think that problem will be ever solved to anyone's total satisfaction.

[12:30]

As the members know, the ministry in recent years has pursued this problem from a number of different angles. When one looks at the enormous caseload and the growth in the caseload over the last 10 years, I think it's fair to say that despite ongoing problems, and despite the caseload crisis which we have always acknowledged, the ministry generally speaking has done a remarkable job in handling this problem as well as they have. I say this as more of a tribute to the many very dedicated people within the ministry who have this responsibility on a day-to-day

basis than it is to any particular wisdom of any particular Attorney General. Because the problem is obviously of enormous dimensions.

Mr. Lawlor referred earlier to the Ontario Law Reform Commission recommendations and reports. We have the former chairman of the Ontario Law Reform Commission now serving as Deputy Attorney General and the ministry is very fortunate in having Dr. Leal serving in that capacity. It provides a very important link to some very important chapters in the life of this province. I'm speaking of the very vital work that was done by the Ontario Law Reform Commission in this area and in many other areas during his stewardship.

The issue that arose when my predecessor, Dalton Bales, responded to the reports of the Ontario Law Reform Commission by indicating that the ministry was going to enhance its role in the day-to-day administration of the courts. As a practising lawyer active in the courts at the time, I can well recall the hackles of the Law Society being raised to a very great extent by this suggestion. The argument that was made, and it's an argument that I've attempted to focus on myself, is how can we have the Attorney General's ministry being a principal litigant before the courts involved in the day-to-day management of the courts? It was said at that time—firstly looking at civil cases where the problem perhaps wasn't as great then as it is now—with the government a major litigant in the civil courts particularly because of the role of the divisional court, it would be very unfortunate if the impression was created that by reason of their "control" over the administration of the courts, we could pick or choose our judges who were to hear any particular case. This was the argument that was made.

Mr. Lawlor: Or give yourself priority.

Hon. Mr. McMurtry: Or give ourselves priorities in relation to other litigants before the courts. This argument was made particularly vociferously by some of the leading members of the defence bar who were concerned that crown prosecutors would be able to steer certain cases in front of certain judges.

Judge shopping is a phenomenon that is not unknown to the lawyers who are present in this room, regardless of whether they have worked for the Ministry of the Attorney General or not. I recall one of our leaders of the bar, later a Supreme Court judge and now deceased, about which many delightful stories are still told, often talked about consulting the Bible on a day-to-day basis when he went about his professional duties. He

would then advise anyone interested that the Bible he was referring to was the circuit guide. In his view the best service he could provide his client was getting that client in front of the right judge. I would like to think that impression is conveyed more in jest than in terms of day-to-day reality, but in the nature of human affairs there will always be a certain element of truth in that.

So this was a concern and many of my very good friends at the bar shared their concerns with me, as another practitioner, that this role of the Attorney General represented the potential for abuse and an impression that should be avoided if possible. Many members, and of course the critics of the opposition parties, are well familiar with this debate. I don't refer to it to assist them, but it's important that some of the other members of the committee appreciate some of the background that is quite relevant to the administration of the courts. And some of our younger colleagues may not recall totally the storm that arose at that time.

The next step of any significance was the central west project referred to by Mr. Lawlor, legislation I think was passed in 1974 or 1975—in any event, prior to my arrival in the Legislature. It involved a very careful study of the Hamilton-Halton area with respect to the administration of the courts. Participating in that study were court administrators and officials of the Ministry of the Attorney General, members of the judiciary, members of the bar and members of the public generally, so that all interests would be represented.

As a result of this study, it was acknowledged that new management techniques were required, and a number have been applied. The central west project placed into focus a very crucial problem, that of divided responsibility. The case-flow management, which is critical to this, which is the base, the guts of this whole problem, had two very basic components: the component as represented by the management expertise of the Ministry of the Attorney General, through court administrators, in getting these cases to court quite apart from the obvious role of the lawyers in getting these cases to court; and what happened once the case was dealt with inside the courtroom.

Once the case appeared on a court list, judicial independence took over, as it must, and what happened to that case at that time really became very much the responsibility of the presiding judge. I'm sure the court administrators in various parts of the province have a difficult task as they are faced with directives from the Ministry of the Attorney General on the one hand and occa-

sionally directives from the judges on the other hand that may not always be compatible.

**Mrs. Campbell:** Judges also had problems with some of these cases.

**Hon. Mr. McMurtry:** Yes, I'm sure Mrs. Campbell, as she has in the past, can share some of her experiences as a provincial court judge in relation to this.

As a result of this study and problem that was raised, my predecessor indicated his response to the Ontario Law Reform Commission report that resulted in the central west study, which indicated that there would always be a problem in this divided responsibility quite apart from any unfortunate impression that might be created by the dual role of the Ministry of the Attorney General, namely as litigants or representing litigants, i.e. the government on the one hand and the administrator on the other hand.

As a result of this history, of course, we developed and produced our white paper on courts administration, which I think I tabled in the fall of 1976. I may be mistaken as to that, but almost two years ago. That dealt with the issues head on and it had attached to it legislation which really was intended to set up a judicial council to take over the administration of the court. The judicial council will be made up entirely of judges, with the exception of the director of courts administration who, as I recall our proposal, would enjoy the status of deputy minister and would really be the day-to-day manager.

Whether that person was to be a member of the judicial council or not was a subject matter of some debate with the judiciary. I think where we finally left it was that that person, though not a judge, was to be a member of the judicial council.

I think this history is important, because it's interesting for me to share with the members—and I hope it will be interesting for the members if I were to share with them the response of the bar to this proposal. I think it is fair to say that it was mixed—

**Mrs. Campbell:** Isn't it always?

**Hon. Mr. McMurtry:** —as it is always, and there was a great deal of opposition to it from some very responsible quarters. This opposition was reflected to some extent in the editorial pages of some of our newspapers across the province. I recall the *Globe* and *Mail* took me to task for even suggesting such a proposal.

**Mr. Williams:** It must have been a good one then, Roy.

**Hon. Mr. McMurtry:** The opposition started from one fundamental premise. I might say it was a concern that the Lord

Chancellor of England shared with me when I visited with him to discuss our proposal because of his unique role, and certainly we wouldn't have this problem, to the same extent at least, if we had a Lord Chancellor.

**Mrs. Campbell:** If we had a Lord Chancellor. There you are, Pat, we've come full circle.

[12:45]

**Hon. Mr. McMurtry:** It took me a while to get to that point.

**Mrs. Campbell:** We were waiting with bated breath.

**Mr. Chairman:** Lawlor can stick out his shingle as a psychic now.

**Mrs. Campbell:** Oh, no. He'll be investigated.

**Hon. Mr. McMurtry:** The fundamental principle—it would perhaps be more appropriate to discuss it in terms of principle—is the accountability of the Attorney General to the citizens of this province for the proper administration of justice. The view was expressed that this accountability relates to the proper administration of the courts and that it could not be satisfactorily delegated to anybody, regardless of how eminent that body might be.

Even though the Attorney General—and certainly our proposal envisaged the Attorney General retaining, as that person must, the overall accountability—it was felt that we could achieve that at the same time, while giving the judicial council the day-to-day responsibility.

The Globe and Mail and others—I should say, others and the Globe and Mail, don't necessarily want to give them pre-eminence—thought otherwise. It is obviously an issue that is of great concern to me and one which, I have to tell you very frankly, I don't pretend to have the answer for.

I don't think I'm unfair to say, Mr. Deputy Minister, that the first chairman of the Ontario Law Reform Commission, the former Chief Justice of the High Court, Mr. McRuer, also has shared his concerns with me on the basis of the Attorney General's accountability. So I think it's fair to say that that fundamental issue is yet still unresolved. But what we have done—and I think we have made progress—is the establishment of the judicial advisory council; I regard that as at least a very important interim step.

The former Chief Justice of Ontario was in the office when I first became Attorney General and I suppose while he was Chief Justice there was X number of Attorneys General with whom he discussed this problem. But I'm now in the interesting posi-

tion of saying that there have been, during my three years as Attorney General, three different Chief Justices of Ontario.

In view of the very important and vital role that would have to be played by any Chief Justice of the province with respect to a judicial council, one has to have an opportunity to sort some of these matters out. The present Chief Justice of Ontario, Chief Justice Howland, has demonstrated a very great concern in relation to the whole problem of proper case-law management and has committed himself to assisting in any way he can. I believe he has been a very positive force and a very creative force in assisting us with this problem. Obviously, it relates in a very fundamental way to the discharge of his own responsibilities.

As part of this process, we have to recognize that judges are appointed first and foremost to judge. I think it was Mr. Lawlor who mentioned that judges are not appointed necessarily because of their administrative experience or capacity. We believe, regardless of what happens ultimately with respect to the white paper, the role of the judiciary must be pre-eminent in relation to the administration of the courts. It's quite obvious that judges, quite properly, should only take direction from judges, apart from legislation that might be passed. Their administrative role is an important one. Yet at the same time, we don't want to have Chief Justices and chief judges who are full time administrators.

If they were to cease sitting in court a good deal of time, the role of the judiciary would be diminished. As a result of this, as you have noted during the past year or so, we have appointed associate chief justices and chief judges at all levels of the court in Ontario in order that judges and Chief Justices may share their administrative responsibilities and still be able to preside in court a good deal of the time.

Quite apart from that, the judicial advisory council, which is made up basically of the same individuals contemplated by the legislation attached to the white paper, is acting in an advisory capacity. Many problems related to the administration of the courts are referred to them for their opinion. As a result, we not only have the advisory council, but also what the Chief Justice calls his bench and bar committee, made up of judges and members of the practising profession, in order to resolve some of these practical problems. There are a number of matters being reviewed in order to streamline the case flow without sacrificing any of the fundamental rights as they relate to indi-



vidual litigants before the courts, which must be carefully protected.

We talked about the Williston study with respect to the Court of Appeal; we've had the Kelly report during my tenure. There are a number of matters being reviewed by this advisory council. There's a report on my desk now which arrived within the last day or two dealing with the time judges in the provincial court might properly sit in any one day. A fair amount of controversy arose about whether or not the courts were functioning a sufficient number of hours a day. This is related to many scheduling problems. We wanted to have some guidance as to what one might reasonably expect of a judge sitting in the provincial court, and indeed all levels of the courts, but the provincial court is the one where the greatest volume of cases are heard and where the judges are faced with the most difficult pressures because of the sheer volume.

Whether or not a judge may be available or whether or not they are going to be presiding depends on proper scheduling. It seemed inappropriate for me, as the Attorney General, to tell the judges that we should schedule cases on the basis that they will be sitting X number of hours a day. I just don't think an Attorney General necessarily has a right, or should attempt to exercise a right, to tell a judge how long that person should be in court each day. This was a matter I referred to the judicial advisory council for their consideration and for their advice, and while their opinion, decision and recommendation has no legislative authority it obviously has enormous moral weight, if nothing else. They have reported to me on that, and I will be sharing the report with the members of the Legislature, perhaps next week, when I have had a chance to read it myself.

**Mrs. Campbell:** It would be infinitely more refreshing if you shared it before you read it yourself.

**Hon. Mr. McMurtry:** But that is the type of problem that the judicial advisory council will consider. We have other problems in relation to our whole circuit system of Supreme Court judges. We are concerned too with assuring the people who are litigants, outside of the large urban areas of the province, that they have reasonable access to the courts, to the Supreme Court, which as you know goes on circuit, and the advisory council and the bench and bar committees are looking at such matters as regionalizing the Supreme Court in order to provide better access and more frequent sittings.

That is, again, the type of problem that is being reviewed while we wrestle with mak-

ing the final ultimate decision as to whether to proceed with the white paper on courts administration, but I think it is fair to say that there will be no legislation introduced, at least this fall.

**Mrs. Campbell:** Not next week anyway.

**Hon. Mr. McMurtry:** At least with respect to the white paper on courts administration.

There is another project that I am reviewing. I think it is fair to say that I don't attempt to maintain an undue degree of confidential communications within the ministry when I think it is in the public interest to share it with the public as a whole, and I think this is just demonstrated by the fact that one of our senior advisers handed me a note about another issue which, quite frankly, I would prefer not to even mention. In view of my basic and fundamental frank approach to these issues, I'll read you the note: "Other provinces are discussing merger of courts issue; it's a live issue."

**Mr. Lawlor:** It is still a live issue?

**Hon. Mr. McMurtry:** I'll tell you, that will be read probably two minutes from now in other quarters, and I'll have a lot of—

**Mrs. Campbell:** Explaining to do.

**Hon. Mr. McMurtry:**—well, a lot of interested members of the judiciary, because it is obviously a very contentious issue. The merger of the Supreme Court and county courts is what we are talking about, for the nonlawyers; which happened in Quebec some time ago; which is proceeding in Alberta and I think New Brunswick.

**Mr. Leal:** It was passed there. Prince Edward Island.

**Mrs. Campbell:** You see, we don't lead the world.

**Hon. Mr. McMurtry:** With all due respect to my good friend Alex Campbell, I don't think their experience is too helpful.

**Mr. Lawlor:** I thought it was accomplished in British Columbia.

[1:00]

**Hon. Mr. McMurtry:** No. There is quite a ruckus in Alberta, I think it's fair to say, in relation to this. While this is a legitimate area of discussion, it is a very contentious issue. I personally would like to resolve some of the other outstanding problems before we get down to resolving this one. I think that might be an appropriate time—

**Mr. Chairman:** We'll continue on Thursday, after orders. The minister is not available on Wednesday.

**Mr. Lawlor:** Mr. Chairman, may I just bring up one thing? Mr. Williams' committee

was going to Ottawa on November 15. Maybe I shouldn't bring it up here, but it's a Wednesday—and we will meet next week—but my problem is, as you can see, I am representing my party here virtually alone. If I go to Ottawa for that day with the statutory instruments committee to study regulations, then I can't be here.

**Mr. Williams:** It's a week from this coming Wednesday—and of course Mr. Lawlor's primary responsibility is to be here as the critic for his party. I understand we have about 14 hours to go, which inevitably is going to take us to November 15. We're just trying to finalize those arrangements, but—

**Mr. Lawlor:** We could consider putting it over. You don't have to do it right now. We do have to book hotel rooms and what not. But if the Attorney General wishes to get on with these estimates, then so be it; I'll stay.

**Mrs. Campbell:** Mr. Chairman, wasn't there some provisional rule or something—it certainly was a recommendation—that when the minister couldn't be available, we didn't sit and we didn't lose time, and that would apply equally to the critics? Is that not enshrined in something or other? We certainly discussed it at length.

**Hon. Mr. McMurtry:** As far as I'm concerned, I will attempt to accommodate any of the members of the committee, particularly the critics. If Mr. Lawlor can't be here on the Wednesday, then I'm quite content to accommodate him in any way I can. In other words, I'm really in the hands of the committee. There may be another occasion in which I can't be present. I can't predict that one way or the other.

**Mr. Chairman:** Would the two critics agree to sit an extra couple of hours then next Friday afternoon? And then, waiving—

**Mr. Lawlor:** I'm prepared to do that. It's a bad precedent, but I'm prepared to do it.

**Mrs. Campbell:** Mr. Chairman, subject to anything I may have on my calendar, I certainly would be prepared to do that.

**Mr. Chairman:** I'm a little concerned—

**Mrs. Campbell:** I don't normally have anything.

**Mr. Chairman** —we just can't afford to lose two sessions.

**Mrs. Campbell:** No. I think we should try to accommodate Mr. Lawlor as I would hope you would accommodate me in similar circumstances.

**Mr. Chairman:** Can I take it then, that Mr. Lawlor, Mrs. Campbell and Mr. Williams will consult with their colleagues on that committee with the suggestion—

**Mrs. Campbell:** What other colleagues?

**Mr. Chairman:** All of the ones that are not here at 1 o'clock on Friday, and ask if perhaps they might be here at 1 o'clock, 2 o'clock or 3 o'clock next Friday in order to proceed with—

**Mr. Leal:** Friday, November 3, Mr. Chairman? Next Friday?

**Mr. Chairman:** Yes. We can put in the extra hours then—is that okay with the minister?

**Hon. Mr. McMurtry:** I think so.

**Mrs. Campbell:** There won't be a break then? We will go right through?

**Mr. Chairman:** That might be difficult for some people. I think we may—

**Mrs. Campbell:** It's difficult because I think Mr. Lawlor and I, subject to Mr. Taylor, would like to inveigle the Attorney General into a meeting later.

The committee adjourned at 1:05 p.m.

## CONTENTS

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Friday, October 27, 1978

Law officer of the Crown program .....	J-313
Adjournment .....	J-325

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)

Cureatz, S. (Durham East PC)

Lawlor, P. D. (Lakeshore NDP)

MacBeth, J. P. (Humber PC)

McMurtry, Hon. R.; Attorney General, Acting Solicitor General (Eglinton PC)

Philip, E.; Chairman (Etobicoke NDP)

Renwick, J. A. (Riverdale NDP)

Williams, J. (Oriole PC)

**From the Ministry of the Attorney General:**

Leal, H. A., Deputy Attorney General





No. J-14

# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

**Administration of Justice Committee**  
Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**  
Thursday, November 2, 1978

Speaker: Honourable John E. Stokes  
Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

THURSDAY, NOVEMBER 2, 1978

The committee met at 3:43 p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1301, Law officer of the crown program; item 1, Attorney General:

**Mr. Chairman:** I have a list: Mr. Renwick, followed by Mr. T. P. Reid—he was on and off my list, but he's second on the list now.

**Mr. T. P. Reid:** Thank you.

**Mrs. Campbell:** Has the Attorney General finished his responses?

**Hon. Mr. McMurtry:** I think I concluded my response.

**Mr. Chairman:** Are the two critics satisfied that the Attorney General has completed his response, or did you want more? Before Mr. Renwick, I would like to recognize the distinguished counsel, Mr. Max Rapoport who has been of great assistance to many of us on other committees. He's in the audience and we welcome him.

**Mr. Renwick:** Mr. Chairman, and Mr. Minister, I've got five or six points that I want to raise with you and I want to try to raise them laconically—

**Mr. Lawlor:** You told me three last time. Go ahead.

**Mr. Renwick:** —and I don't want to take up a great deal of time. I'm going to raise some questions I have which I hope won't necessarily elicit long responses about the constitutional conference from which you just returned. It's unfortunate that not only are your estimates on, but by coincidence the estimates of your colleague, the Minister of Intergovernmental Affairs (Mr. Wells) come on on Monday. So we'll have an opportunity to explore some of these areas together in those estimates, as well.

[3:45]

But before going on with that, I had raised some years ago—I'm not one for looking up past references—as long ago as the former Attorney General Mr. Wishart and the subsequent Attorneys General in the time when they were constantly changing, my

very real concern about the lack of definition of the relationship between the roles of the Royal Canadian Mounted Police, the other police forces in Ontario, and the commission.

Believe me, I am not about to engage in a discussion of either the Keable commission or the McDonald commission because they're engaged in the work which they're about.

**Hon. Mr. McMurtry:** I have some correspondence I brought along that touches on this—correspondence that I've had with the federal Solicitor General and the McDonald commission which I'm quite prepared to give you copies of.

**Mr. Renwick:** I would certainly like to have copies of that.

Let us assume for the moment that we were in the pristine days when the RCMP was untouchable and whatever they did in Ontario was not a matter of concern to the Attorney General of any real moment. I have always felt we should have, as it is in certain provinces, an actual agreement with the RCMP, where they exclusively perform the function equivalent to the Ontario Provincial Police. I've never seen one of those agreements and it may not apply.

Leaving aside the form of the agreement, I have been satisfied for a long time that it was important there be an agreement, a memorandum of understanding, as to just what roles the Royal Canadian Mounted Police perform in Ontario. And if I could use that dreadful jargon term, that is the interface between the RCMP, and the OPP, the Ontario Police Commission and the municipal police forces, other than to say, "We always co-operate in certain fields."

I understand by hearsay and by personal experience that certain fields of police work are left to the RCMP. Certain other fields are not. In certain areas there's co-operation, overlapping. Again there's this question of the whole right of the RCMP to deal in security matters.

You can read all the constitutional history you want—I have had great difficulty in ever finding any authority by which the RCMP have, in addition to traditional police powers, the security role. I'm referring to a whole equivalent to the CIA or MI6 or whatever it



is in the United Kingdom, with respect to security matters and espionage and counter-espionage and the whole retinue of things which James Bond has made such household topics in these times.

I assume there's no such agreement. My question really is whether there is any value in trying to clarify the relationship between the ministry of the Attorney General in Ontario and the federal government with respect to the functioning in Ontario of the RCMP.

**Hon. Mr. McMurtry:** Briefly, Mr. Renwick, this is a matter that has been of some concern to me as Attorney General regardless of my role as Solicitor General and for fairly obvious reasons. I am not aware of any memorandum of understanding or of any document of that nature that presently exists. I can't say categorically that there has never been any such memorandum of understanding. I'm simply unaware of any such memorandum. I personally believe that at some point in the not too distant future there should be.

This was discussed by the provincial Attorneys General in Ottawa this week—not the memorandum of understanding, but the role of the RCMP vis-à-vis the provincial Attorneys General in relation to national security in this matter. As you know all the provinces but the provinces of Ontario and Quebec have their own agreements, but it is really a contract relating to the services, and certainly the contracts that have been entered into to my knowledge haven't assisted.

While we were in Ottawa we had a separate meeting of the Attorneys General to review some matters unrelated to the constitution but matters that were of concern, and this was on the list. I had circulated copies of my correspondence with the federal Solicitor General and the McDonald commission among my provincial counterparts, and actually when the estimates commenced I brought along copies of this correspondence, thinking that some of the members of the committee might be interested in it because a number of these issues are raised.

Of course, I think one of the fundamental issues is, first of all, in relation to the activities of the RCMP. We have to look at it in two parts—first of all, the role of the RCMP in Ontario vis-à-vis criminal investigation on the one hand and the current role of the RCMP vis-à-vis national security. They are quite separate so far as the RCMP is concerned, and I think this is one of the problems that has developed, quite frankly, within the ranks of the RCMP. One branch really doesn't seem to know very much about what the other is doing within the province.

The criminal investigation branch is accountable to the assistant commissioner who is in charge of O Division in Ontario, but the security people report only to Ottawa, and I think this is unfortunate.

**Mr. Renwick:** Perhaps you'd allow me a minor interjection right now on that particular point that that was where the great bulk of the problem comes, because of this overlap from the United States—the general atmosphere of the Nixon years and others, that somehow or other the security operators were above the law.

I doubt very much whether on the actual criminal investigation part it needs anything other than a clarification and a public understanding of what the RCMP do in a province which has multiple police forces of one kind. But you must have found it extremely difficult, in dealing with these surreptitious entries, to find that you are dealing with the official of the RCMP here who really doesn't have any authority with respect to security matters. Is that a fair statement?

**Hon. Mr. McMurtry:** To me, yes, this is unfortunate. My experience has been that the assistant commissioner in charge of the criminal investigation branch just doesn't really know.

The role of the RCMP in the province in relation to criminal matters can be broken down into two general categories as well, in a very general sense. First, of course, they are involved with investigation involving federal statutes other than the Criminal Code, but Criminal Code matters as well. Obviously income tax, immigration matters and drug offences are the three principal areas in which they do function in Ontario.

Their role in relation to other criminal investigations is less easy to define, but generally speaking they are involved in matters of criminal investigation that have inter-provincial or international dimension, because with the activities of organized crime obviously provincial boundaries don't mean a great deal. We recognize the fact that while we wish to maintain a strong Ontario Provincial Police force and we want to see that they have resources related to investigating criminal matters, particularly those involving complicated things, such as commercial frauds of one kind or another. We don't want to see them replaced by the RCMP, at the same time we do recognize that the RCMP have a legitimate role to play.

What I have attempted to do during my three years as Attorney General of Ontario, because of our role, quite apart from the role of Solicitor General, is to encourage

the maximum amount of co-operation and interchange of information between the major forces in Ontario and the RCMP. I've learned during this period of time, as most of you know, that there are a number of matters which are really approached by three major forces acting in concert. They call it a joint task force or you could use many different names to describe what is really a three-force operation. The three major forces that are often involved, of course, are the OPP, Metro and the RCMP. They will look at certain criminal behaviour or specific problem areas where they will work together. I think this is very important. We do meet with them on a fairly regular basis; it involves at least the three forces and sometimes additional forces as well.

In so far as the role of the RCMP and the criminal investigation people is concerned, I've made it absolutely clear to them, and I think this has been confirmed in writing, that of course we will not tolerate any breaking of the law by the RCMP or any other police force as a necessary part of their function. We have made that abundantly clear. Of course, I have indicated to them and they've agreed that I should be advised if any information comes to the attention of the senior officers or commanding officer where the law has been broken. I think we have had very good working relationships with the RCMP so far as the criminal investigation branch is concerned.

**Mr. Renwick:** I would doubt if there is any evidence of illegal activities by the criminal investigation branch of the RCMP. Is that fair?

**Hon. Mr. McMurtry:** None has come to my attention. I know some eyebrows were raised in the Legislature when I reported some months ago there was some suggestion of something like 402 surreptitious entries.

**Mr. Renwick:** But that's the security people.

**Hon. Mr. McMurtry:** No, in British Columbia, involving their criminal branch, over a period of time and none in Ontario. I made it quite clear to the RCMP it was difficult for people to understand that it would be one way in that province and they would have such a clean sheet in Ontario. The explanation, which I thought was quite a credible explanation, was that in Ontario they've had some very strong, tough, firm commanding officers who perhaps have had a better control than existed in other provinces.

In any event, in so far as the national security matters are concerned, I've had

very little co-operation from the RCMP. Right now, they have just pretty well stonewalled the provinces and have indicated that this is really none of our concern. This is not satisfactory and I don't intend to allow the matter to rest. We've discussed some of these issues in the correspondence. The federal Solicitor General has replied to my correspondence but his replies were pretty meaningless and I'm not sure that he really understands the issues involved. Certainly, his replies to date wouldn't indicate otherwise. That's a very difficult area and one that has to be resolved.

[4:00]

Quite frankly, Mr. Renwick, we are debating within the ministry the advisability of making a formal submission to the McDonald commission in this area. We haven't made a decision yet. I personally prefer to deal with government, government dealing with government and not through commissions. Some of my provincial colleagues think there is some merit in making a submission and others think that they would prefer to deal with the federal government directly, but at this present time I would have to say that the situation is somewhat unsatisfactory.

**Mr. Renwick:** I'm glad to have you express that concern. I don't want to pursue it any further. I have one individual matter which has been on my mind for about a half a dozen years now, which led me into my initial concerns of eight or nine years ago about what the hell the RCMP were doing in Ontario on security matters, not because they had any right or no right, but I could find no law that supported the provision by the government of Canada of a security force to protect it other than some God-ordained law that you have a right to protect yourself and they're protecting the government in security matters.

It came up this way. There is a man in Toronto now from another country who has been here for years and years. His children have been born here, grown up and have graduated from university. The man lives here, works here and so on. He had been denied his Canadian citizenship. He's probably as safe as can be. He's not going to be deported or anything else.

Andrew Brewin, my colleague in Ottawa, followed it for quite some time. I followed it for quite some time. I enlisted the aid of Jonathan Manthorpe, who was then a reporter with the Globe and Mail, to pursue the matter in the hope that the public's visibility of the problem would provide some solution.

The basis is that the man was engaged in some form of politically subversive activity during the time of the dictatorship in Portugal.

I can well understand that people would perhaps be engaged in some form of subversive activity against the dictatorship in Portugal and still be quite acceptable as Canadian citizens if they chose to leave that country and come here. My man's problem wasn't that. My man's problem was that he simply said: "I was not engaged in any form of political activity in my country of origin. All I want to know is what the reason is that I can't get my Canadian citizenship."

I wrote to the then Minister of Justice, John Turner, to discuss, from my initial immersion into the questions of national security, just what the hell the basis of that was, what the authority was for them being in the field of national security. I said I had some knowledge of constitutional law and I'd certainly read the constitutional documents and I couldn't find anything that indicated there was any justification for that police force engaging in other than police activities in the traditional sense of the term.

I got back a letter which said that it was an inherent right of the government to protect itself, and they declined to give any reason. All I want to know is that if I were to again, if I can get all of the information necessary, raise it with you—not in the estimates but by correspondence—whether or not you would be prepared to ask that question for me about this man as to whether now, in the light of all of the developments, perhaps it could be looked at to see whether or not he could get his Canadian citizenship and be told why not.

**Hon. Mr. McMurtry:** I would have no objection at all to doing that, Mr. Renwick. In relation to the RCMP, obviously the federal government must have some force engaged in security matters.

**Mr. Renwick:** It's nice to have a legal basis for that kind of thing.

**Hon. Mr. McMurtry:** Yes, this is maybe something we should consider as part of the constitutional reform. I think most people concede that is a proper function of a federal government.

Speaking personally, despite the difficulties the RCMP have encountered or that have been encountered with the RCMP, I have to say for whatever it's worth at this point in time that I have a grave concern about establishing a separate body outside the RCMP for this purpose.

**Mr. Renwick:** Oh, I'm not suggesting that.

**Hon. Mr. McMurtry:** No, I'm not suggesting that you had suggested that, but this is a suggestion that has been made from time to time, that there should be a separate national security force.

**Mr. Renwick:** It would seem to me that if that is a role of the RCMP, one should be able—go ahead.

**Hon. Mr. McMurtry:** I have been advised by one of my senior advisers. Mr. Renwick, that apparently Ottawa is in the process of establishing an immigration review board, a security review board, in order to provide individuals like the one you have just described with an avenue of appeal from the course of the national security force.

**Mr. Renwick:** Perhaps you as my surrogate would take up the case of my constituent, in your role as Attorney General.

**Hon. Mr. McMurtry:** I certainly will. Also, Mr. Renwick, on Thursday you asked me whether any complaints had been made to either the Ministry of Transportation and Communications or the Ontario Highway Transport Board by litigants complaining about the propriety of board decisions. We checked with the ministry, and through them with the board, and our information is that to date no complaints have been received about board decisions.

**Mr. Renwick:** I may come back with a minor comment about that or a somewhat different perspective on that question in a little while.

I'm satisfied with your response about the RCMP because it indicates you have a shared concern about the lack of definition of the position of the RCMP and what should be done.

**Mr. T. P. Reid:** Excuse me, Mr. Renwick.

**Mr. Renwick:** May I just finish?

**Mr. T. P. Reid:** The Attorney General didn't mention organized crime.

**Mr. Renwick:** Just a second, Mr. Reid. I think you're second on the list.

**Mr. Chairman:** You're next on the list, Mr. Reid.

**Mr. Renwick:** I would hope this would lead to that matter being, in fact, on the constitution committee's agenda for discussion, this ongoing discussion on constitutional matters.

My second matter is with respect to the study of Dr. Hill. Is Dr. Hill back in the country yet?

**Hon. Mr. McMurtry:** He was apparently back for a day or so on a weekend, according to the press reports. I haven't spoken to him, but his intention was to go to Europe for



two or three weeks and I believe he is presently in Europe.

**Mr. Renwick:** Are you sure he's not away taking a Psi course?

**Hon. Mr. McMurtry:** I'd better not comment.

**Mr. Renwick:** I know you're working on the terms of reference and you may want to consult with him about them, but before your estimates are over, and in the hope that Dr. Hill will be back before they're over, in any event I would like to have an opportunity while your estimates are on, perhaps at the end, to have a little bit of time to talk about the terms of reference. I found it an intellectual morass so far as any guiding light as to what should be done. I've made some effort to sort it out and I've got some areas I would like to have an opportunity to discuss in the hope that it would provide some input into what Dr. Hill will be engaged in, preferably with him here.

**Hon. Mr. McMurtry:** I'd certainly welcome any assistance you may be able to provide—

**Mr. Renwick:** I want to do that.

**Hon. Mr. McMurtry:** —Mr. Renwick, because it is a very difficult matter.

**Mr. Renwick:** It's extremely difficult and I've been fortunate enough to be able to make what I believe to be some progress in sorting out in my own mind, with some assistance, where we should be going.

Since I have the responsibility as critic, I'm hopeful that we may raise the question my colleague raised about the provincial secretariat directly with your colleague, Mr. Welch, at the time his estimates are before us, to decide whether or not there is value in the provincial secretariat. It's conventional wisdom and my colleague always expresses conventional wisdom.

**Hon. Mr. McMurtry:** In unconventional terms.

**Mr. Lawlor:** No, unconventional wisdom in conventional terms, for heaven's sake.

**Mr. Renwick:** The counter argument to the conventional wisdom that the Provincial Secretariat for Justice doesn't accomplish any purpose is that, historically, all other ministries except Correctional Services are spinoff ministries of the Ministry of the Attorney General. We started from the point of co-ordination and responsibility in one ministry and spun off the other ministries from the Ministry of the Attorney General. There must have been a good reason for them all being under one roof, other than growing

like Topsy. The overlapping thing leads us to a basis for having a discussion with your colleague Mr. Welch at the time of his estimates, and without joining the Liberal rally for a retrenchment of government to the point where services to citizens are totally destroyed see our way clear to coming to a conclusion that the provincial secretariat should or should not exist.

**Mr. T. P. Reid:** Let it be known that the Liberal Party doesn't agree with that statement of Mr. Renwick's, but he is trying to slip in.

**Mr. Renwick:** I didn't think you would.

**Mrs. Campbell:** He didn't.

**Mr. Renwick:** It was only the look of your back that made me say it.

**Mr. T. P. Reid:** Look at my back and think of retrenchment?

**Mr. Renwick:** I did want you to know I was hoping to raise it at that time in some way.

The next point is one that my colleague, the member for Carleton East (Ms. Gigantes), brought to my attention because of an actual case with which she is very much involved, about which I believe your ministry has had correspondence with her or the Solicitor General previously had correspondence with her. There was a comment in the throne speech on February 21 that new legislation will be introduced to protect children caught up in family disputes. The bill will deal with custody and access proceedings with the increasing problems of kidnapping of children by parents. Steps will also be taken to explore the use of independent legal representation as a means of protecting the interests of children in family law cases.

We know about the status of the last sentence. There is the legal representation study to which you've referred from time to time. You referred to it in your opening remarks. But what about this new legislation, about which I've heard nothing further, dealing with this question of custody, access and the problem of kidnapping of children by parents? Do you intend to introduce legislation?

[4:15]

**Hon. Mr. McMurtry:** There's a number of dimensions to this issue. The proposed amendment to the Criminal Code deals with it in one sense and we, as part of our children's package which we expect to introduce during this session, will deal with it. Part of it is legislation dealing with reciprocal enforcement of custody orders. The various

provinces have been working on this legislation for some time through the uniformity law commissioners, and the Deputy Attorney General is—are you currently chairman of the uniformity law commission?

**Mr. Leal:** Just immediate past president.

**Hon. Mr. McMurtry:** Mr. Leal may be able to give you more of the specifics than I can, but this is obviously a matter of great concern. I know your colleague from Carleton East has talked to Mr. Leal on a number of occasions about the Pawley case, and I think the Deputy Attorney General has literally spent hours—I don't think that is an exaggeration—in relation to that particular case.

The reciprocal enforcement of custody orders legislation is not the final answer, but we hope at least between provinces it will be helpful. As you know, it is a particularly difficult area to resolve for a number of reasons. One very good reason—the member for St. George has experienced this personally, I am sure, in her tenure as a member of the judiciary—is that no court wants simply to be a rubber stamp for another court when it is believed that the interests of the child may not be well served. We hope this legislation at least will discourage to some extent the parents from taking off with their children.

Would you like to bring us up to date on any of this, Mr. Deputy Attorney General?

**Mr. Leal:** As the Attorney General has mentioned, there are three facets to this very serious problem. The first is being dealt with by the proposals for amendment of the Criminal Code, making it a criminal offence in a way which has not been true to date.

The second is the area in which provincial jurisdictions can legislate on the Canadian scene and, therefore, on the interprovincial scene. I think eight of the Canadian provinces have already adopted the uniform law on reciprocal enforcement of custody orders.

We haven't adopted it in Ontario for two good reasons. The first is that recent jurisprudence of our courts accomplishes to a very great degree the type of principle that manifests itself in the reciprocal enforcement legislation. The Ontario courts have denied jurisdiction; they have imposed, if you like, a commendable self-restraint on their own jurisdiction not to vary an order made in another jurisdiction.

By enacting that legislation here, we wouldn't be adding all that much to what the Ontario Supreme Court now does in ex-

ercising self-restraint with regard to variation of an order.

But there is another aspect of the matter so far as our legislation is concerned: The existing model act is rather unsatisfactory in a number of respects. First of all, there is the link with another court so far as jurisdiction is concerned; in the statute at the moment it is written in terms of that court or that jurisdiction with which the child is most closely connected.

That is not something that really is terribly helpful when you are dealing with outside jurisdictions, which have other tests in any event to establish that, such as habitual residence. So, in the new legislation that the Attorney General will be introducing in Ontario, there will be some departures from the uniform act but which we think will considerably improve the uniform act including methods of enforcement which will put teeth into it in a way that doesn't exist in the present uniform legislation. Indeed, I am meeting tomorrow morning with representatives from the other provinces and the federal administration to discuss this very topic.

The third aspect I would like to deal with very briefly is that due to the initiative taken by Canada, this whole problem of kidnapping, childnapping, will be on the agenda for discussion at the plenary session of the Hague conference which will take place in 1980. The documentation, the draft convention, will be worked on this coming year.

**Mr. Renwick:** I would be glad to go.

**Mr. T. P. Reid:** In what capacity?

**Mr. Leal:** As a member of the Canadian delegation.

**Mr. T. P. Reid:** As a former member of the Legislature.

**Mr. Leal:** I will recommend that. But that's really where the rub comes, not interprovincially but internationally. The only way that that can be taken care of properly is by bilateral treaty or multilateral treaty, and that's what the Hague will be doing. We saved a working paper and a questionnaire from the permanent bureau at the Hague relevant to that convention. I would hope that if they are able to come up with an international convention on childnapping, Canada would be very fast indeed to ratify or accede to it on behalf of itself and the provinces.

**Mr. Renwick:** Just two questions. One is, when do you expect the legislation that you can introduce to come into the assembly? This fall or next spring?

**Mr. Leal:** This fall.

**Mr. Renwick:** This fall?

**Mr. Leal:** As part of the children's package, part two.

**Mr. Renwick:** For passage or for—

**Mr. Leal:** For real.

**Hon. Mr. McMurtry:** Hopefully for passage. That will have a lot to do with you.

**Mrs. Campbell:** Is passage not real?

**Mr. Renwick:** I meant in that field you often leave things open for two or three months.

**Hon. Mr. McMurtry:** Not this one, we would like to see it passed.

**Mr. Renwick:** And as usual, most laws usually don't deal with the instant case. Would that law be of assistance in the Pawley case? I don't mean retroactively.

**Mr. Leal:** There is no legislation that Ontario could pass which would solve the Pawley case because the Pawley children and their mother are somewhere south of the border, we know not where at the moment because every time they find her, she then moves.

**Mrs. Campbell:** I was interested in what the Deputy Attorney General said about the Hague conference because I had wondered why there hadn't been some move by agreement with those states and those countries where we have reciprocity for other purposes to try at least to work out some agreement, as I understand that would have to be the way we would move, pending some international agreement. Has there been any move at all? It seemed to me that we have had reciprocity in other matters for quite some time and we seem to have been getting new states into the situation for quite some time. I just wondered why we wouldn't have been looking at that, and I assume that until we had our own legislation in place for the Canadian provinces, that might have been the reason for delay.

**Mr. Leal:** Mr. Chairman, I may be wrong but I think the only agreement existing in Canada is between the province of Quebec and France on reciprocal enforcement of custody orders.

**Mrs. Campbell:** I wasn't speaking of custody orders. I was speaking of other matters in the matrimonial—

**Mr. Leal:** Oh, well, maintenance orders are very common, but we haven't followed the same route, for obvious reasons. The custody orders are much more difficult to enforce.

**Mrs. Campbell:** I am aware of that, but I wonder, pending any other kind of argument, if that wouldn't be something to try

at least to look at. I'm aware of the differences in the guidelines, if you like, in other places. It is certainly something which is of deep concern to many of us in this province today.

**Hon. Mr. McMurtry:** It's a very tragic problem. Obviously, when we have so many of our citizens with roots in other nations, this is a problem that is of particular significance to Canadians.

**Mr. Renwick:** Two matters arising out of the first report of the select committee on company law dealing with automobile insurance. I just want to mention them in the hope that in due course your ministry might look at them again to see whether or not they're prepared, with whatever consultations are necessary with colleagues in other ministries, to deal with them.

The first one came up under the select committee on company law dealing with loan and trust corporations; the question of administration of estates of deceased persons where for practical purposes a trust company is, in its role as executor, just not interested in the great bulk of the estates that are involved because the fee and the work are not commensurate with the responsibility.

For practical purposes I'm talking about estates where it's very easy for some people—more difficult for others—to die worth anywhere from \$100,000 to \$200,000 because of group insurance and ownership of a house property, with inflation and all the other aspects that go in.

I think it's fair to say that a trust company would not take on an executorship, if they could avoid it, under something like \$200,000-odd because of the way many people have of designing the beneficiary under a policy of insurance, which avoids any will disposition, arrangements for pensions and all other things to be payable to designated beneficiaries.

In fact, I believe—I think the committee shared this belief, but perhaps not the extreme view that I do—there's a tremendous inefficiency for the ordinary estate administration because there's no way to get the funds together which might be able to be used in a much better way if they could all be got together. An actual \$200,000 or \$150,000 produced would allow a testator to give consideration to a better disposition of his estate with respect to carrying out his wishes and the economic use of scarce resources with a widow and, say, children surviving.

The trust companies obviously were quite prepared to enter into study of the prob-



lem to see if they could find some other method of dealing with it, other than having to deal with it themselves. The counter argument is if they're going to be entitled to the use of the word "trust," their traditional role and trade in their business, and go off into all other fields and have that very significant term in their title, maybe they are going to have to bear some burden of a loss operation with respect to administration of estates. I don't know whether that's the solution. There may be a role for the government in it. I don't know.

But I would hope that perhaps you would check that, because I think it's a serious problem which most lawyers would, I believe, agree with—that the administration of the ordinary person's estate is a very inefficient, uneconomic operation from the point of view of maximizing the use of the scarce resources which the ordinary person can accumulate in his lifetime, particularly when he ends up being worth a considerable number of dollars more dead than alive.

[4:30]

**Hon. Mr. McMurtry:** Dr. Leal has reminded me that the Ontario Law Reform Commission is looking into this whole area. We will certainly ensure that this specific problem is dealt with by the law reform commission as part of their total package.

**Mr. Renwick:** Would you be good enough to make certain that they are aware of what the select committee did say in that particular report on that issue?

The other item did come up under the first report of the select committee on insurance law and I've been worried about the lack of any progress in it. Because the movement to compulsory automobile insurance embraces a large number of problems, it obviously requires the state, the government, to be the final arbiter about ruling people off the road. We know how sensitive and how difficult that is, and the committee was well aware of the sensitivity and difficulty of that problem, of what is the basis on which a person is ruled off the road, and for how long and so on.

I am not talking about offences under the Criminal Code or that kind of offence. I am talking about other circumstances where a person shouldn't be driving. If you have a compulsory insurance system, I think the government has a responsibility to set up a procedure which is fair and equitable, but protects the public interest in getting dangerous drivers off the road, as well as protecting the individual right of people or

privilege, however you look at it—being able to drive.

For want of being able to come up with any definitive way or procedural methods by which you would go through this, we just suggested that we make use of the two eminent jurists, former Chief Justices McClure and Gale, to look into this problem and see whether or not, with their sense of equity, they could begin to devise a better procedural method, which would be fair to the citizens, of protecting the public interest of getting unsafe drivers off the road.

I would hope that perhaps you would take a look at that report, resurrect the particular part, and see if, in consultation with your colleagues, there is any way it could be got under way. I still think Mr. Gale and Mr. McClure would be ideal people to do the job jointly.

**Hon. Mr. McMurtry:** They would certainly be ideal. We are certainly keeping them both pretty busy at the present time, but we will look into that.

**Mr. Renwick:** I know my colleagues will bear with me. I want to touch on just a few questions on the constitutional conference.

Rather than leave my major concern to the end, let me raise it first. Then if perhaps you would defer your answer on the other we could talk about a few miscellaneous points and come back to my major concern at the end. If that is agreeable to you.

My major concern is this—and I am going to put it in black and white in order to point it up, rather than anything else. I am very much concerned that if everything went ideally, the first ministers will reach agreement in February about significant constitutional changes which they are all agreed in. Let's be optimistic in one sense.

**Hon. Mr. McMurtry:** One has to be.

**Mr. Renwick:** Well, all right.

**Mrs. Campbell:** And pray.

**Hon. Mr. McMurtry:** I would like to be able to share your optimism. I'm trying very hard.

**Mr. Renwick:** That's the black and white part of it. The closer it gets to twilight, I may let a little of the grey in or become a little more sceptical. But you see the position that will put the assembly in. It would either exclude the assembly—that is, the elected representatives of the people and I'm talking about the members of the government party just as much as I am about the opposition parties—from having any discussion about it or it would simply be a rubber stamp—

true, it's a minority House—or we could fight an election on it. It seems to me that the atmosphere would be such that for practical purposes we'd go through the post-operation of some kind of an afternoon or an afternoon and evening debate in which we would all speak about constitutional matters, but there'd be no way to stop the process that would have been done by the first ministers.

The other side of the coin, and I think it's equally black and white and not applicable, is that your committee could be representative of all three parties in the House, and so on. That's probably much too cumbersome; there's probably nothing real about it. But we have got to have, I think, some forum between now and then—"now" is now; whenever "then" is—where some kind of a constitutional package is put together in which the elected members of the assembly have some participation in the various discussions which are going on. I recognize that the decisions are governmental matters as distinct from assembly matters. I recognize the actual decisions are there, but I must say that I'm extremely concerned at the sense of exclusion of the assembly.

I think it was mirrored today and pointed up very clearly in the House that the Premier came back from a first ministers' conference, made a statement of what took place and neither of the opposition parties raised any question about it in the House today.

**Hon. Mr. McMurtry:** I thought it was equally surprising that neither of the opposition parties raised any questions before the Premier went to the constitutional conference.

**Mr. Renwick:** As I say, I'm not prepared to say what that reflects. I know what it reflects on my part, and that is a total exclusion as a member of the opposition from participation in any of the ongoing processes by which this government is bringing about constitutional reform.

**Mr. T. P. Reid:** We were promised such a debate two years ago.

**Mr. Renwick:** A debate's a debate and everybody knows that; it's better than nothing, but it's very little better than nothing. In other words, there's been no consultation by the government with the members of the assembly. There's been no forum for input by the assembly to members of your committee, members from Ontario of, say, this new committee that is being established.

**Hon. Mr. McMurtry:** I'm not sure what you mean by the new committee.

**Mr. Renwick:** Since the first ministers met so much in public, I'm talking about the committee which is going to deal between now and then behind closed doors so that the trade-offs they didn't want to make in public can be made in private.

**Hon. Mr. McMurtry:** The only committee of which I am aware is made up of the Ministers of Justice, Attorneys General and Ministers of Intergovernmental Affairs. But I don't think you wanted me to make any comment now.

**Mr. Renwick:** I understand there is a working committee that is going to produce matters that are going to come before another conference in February.

**Hon. Mr. McMurtry:** As you say, hopefully we achieve some success.

**Mr. Renwick:** So that we can be certain we don't go off on a tack, I am thinking of some modality by which the members of the assembly would have an opportunity to meet with the members of the government of the province of Ontario and their principal advisers in the Macdonald Block, in the big room, or the small room or anywhere, by which we could review the position papers of the Ontario government, which we got today. We could talk about the sharing of responsibilities and a redistribution of powers. We could make our comments about what had to be made. We could have some interchange so that we had some sense that you had listened to what some of us might want to say on these matters.

You could go to Ottawa when the time came, for what it was worth, with some sense of what the other members of the assembly were thinking about what is now a long list of matters apparently open for discussion. We could have a very informal exchange of views on these matters. Otherwise, you're going to reduce us to a rubber stamp or you're going to have a ho-hum shrug-your-shoulders view that, "What the hell are we going to do? How can we participate when we don't know all the thinking that's involved?"

**Hon. Mr. McMurtry:** I certainly would be prepared to discuss with my colleague, the Minister of Intergovernmental Affairs (Mr. Wells), the wisdom—and I think there's a lot of wisdom in what you say—of bringing together a forum of those members who are interested in having a very useful discussion. Personally, I would enjoy participation in such a discussion.

I often feel a great sense of frustration, having spent many days on these matters of constitutional reform over the last two years

in particular, in discussing these with most of my friends and neighbours because I usually get about 30 seconds into the conversation when a very distinct glazed look comes over the other participants and I rather—

**Mr. Handleman:** There is a message in that.

**Mr. T. P. Reid:** Are you sure it's just related to constitutional reform?

**Hon. Mr. McMurtry:** That could be a personal problem I have, Patrick.

Premier Ross Thatcher of Saskatchewan spoke for a number of Premiers at that time, and I rather suspect a number of legislators then and since, when he said that as far as he was concerned, on a list of 100 priorities, the constitutional concerns ranked 101.

It has been difficult for the Premier (Mr. Davis) to perceive just what degree of interest there is. Obviously, he would know people like yourself are interested, because you've always had a lot of very intelligent comments to make about these matters. I will discuss this with Tom Wells and see if we can't free up some time whereby we could bring together people who would like to share their thoughts with us. Is this the type of forum you're talking about?

**Mr. Renwick:** Yes, that's what I want. Certainly I'm interested in constitutional matters and I've had the advantage of some study of that particular field, but I would hope there would be a number of members in the assembly who are not lawyers and not interested in constitutional matters who would be very interested to find out what the pros and cons are of the House of the Provinces as distinct from the House of Confederation as distinct from the present Senate.

We could have Frank Drea draft it in layman's language so they could understand it all. What are the various alternatives? Not what the structure will be, but what the motivations are that lead everybody to believe that the Supreme Court has to be re-fashioned on a different basis or entrenched? Is the list of shared responsibilities or distributed powers your committee will be looking into adequate? It may be adequate in terms of history, but could we show a little prescience and decide whether or not it is, because of the problem my colleague, the member for Nickel Belt (Mr. Laughren) raised with the Premier today about the provinces and the federal government and GATT, and the kind of trade and commerce questions that come up? I don't think one needs to spend a lot of time on the patriation of the constitution part of it; that has all been spelled out quite clearly and lucidly. I don't mean it is not a problem; it

is a problem of agreement, but it is not a problem of understanding.

[4:45]

**Mr. Leal:** It is the problem.

**Mr. Renwick:** It may well be a problem in relation to getting it done. It is not a problem with respect to an explanation of how it is to be carried out.

We don't know, in a constitutional context, just what the government of Ontario's actual views are with respect to the ramifications of the communications explosion which is taking place. We are talking about cable, but cable is almost obsolete in the exploding world of communications, which are so vital to everybody now.

There are a number of areas like that where I think the government should welcome an opportunity to exchange views so that, when they go to Ottawa, they can say, "We have made some effort to discuss it." I'm not interested in it being a lawyers' forum about drafting the clauses of the constitution—you hire people for that. It is not a problem.

The gut problem is that we are fashioning presumably significant changes, not just to update the constitution, but for the purpose of making it as viable as it can be for the future development of the country.

**Hon. Mr. McMurtry:** As I say, I will certainly discuss your suggestion in a very positive way. I will not just transmit it, because personally—and obviously I can only speak for myself—I would like to have such an opportunity. It is very frustrating to participate in these interminable conferences and meetings, as we do—and we work pretty bloody hard at times, believe it or not—and often you get the feeling personally that you are just performing in a great vacuum.

**Mrs. Campbell:** In splendid isolation.

**Hon. Mr. McMurtry:** In the case of the first ministers, I don't think there is any first minister in the country who shares more with his cabinet colleagues than the Premier of Ontario, but I know that when the ministers leave the room and all those first ministers are left alone, I'll tell you, we don't know much more than you do as to what the hell the result is going to be.

**Mrs. Campbell:** Neither do they.

**Hon. Mr. McMurtry:** I suppose at some point in time we are going to have to lock all the first ministers in some sort of Sistine Chapel—I don't know; do the cardinals meet in the Sistine Chapel?—and wait for the white smoke.



**Mrs. Campbell:** With our luck, we wouldn't know whether it was white or black.

**Mr. Chairman:** With our luck, the smoke might be a cremation.

**Mr. MacBeth:** Mr. Chairman, I would just like to add briefly that I welcome what Mr. Renwick has said.

I too, as a private member, would welcome the opportunity of taking part in that. I have spoken briefly on two occasions in the House on the matter of the BNA Act. I didn't know whether the cabinet was treating it as a matter of intergovernmental relations, as the federal government does. When they are dealing with another government, I think they take the attitude that it is a matter for the executive council. But on a matter of this nature, and dealing at the provincial level, I think it has a little different significance.

I, as a member, would appreciate an opportunity of getting some of the details of the province's stand and discussing it in a general way. I don't think any of us wants to attack it from a political viewpoint. I think we really want to look at it from the viewpoint of what is good, not only for Ontario, but also for all of Canada.

**Mr. Chairman:** Since nods of heads cannot be recorded in Hansard without someone saying so, I just might mention that there seemed to be a lot of people agreeing with what Mr. MacBeth has just said.

**Mr. T. P. Reid:** We are glazed over with the Attorney General's reply.

**Mr. Renwick:** Since my colleague, Mr. MacBeth, has spoken about it, and I notice that my Liberal colleagues were nodding their heads, and since the Attorney General appeared to think there was some worthwhile way in which it might be pursued by him with his colleagues, I think it would be quite easy for your deputy, Mr. Leal, and for Mr. Wells's deputy, Mr. Stevenson, to draw up for such a committee just a list or an agenda of the topics.

I would like to hear what the government representatives feel about things. I would like to hear my colleagues express themselves about these various topics, and have an area where maybe there are other topics which should be put on the list, and if we are going to do it we might as well do it well and co-operatively.

I just want to finish this part off by saying I've come back to where I've started. I just do not want to find ourselves rubber-stamping a fait accompli in this assembly about the constitution of the country, because I would

feel very much in default as a member of the assembly if that's what you do for constitutional reform, let alone the problem that historians will have if they've got no debates to read.

**Hon. Mr. McMurtry:** I think it is unlikely that would ever happen in a minority government situation. I can't predict precisely what will happen, but I would think if there is some consensus reached and we're going to have meaningful constitutional reform, part of it will be concurrent legislation being passed in every provincial Legislature.

**Mr. Renwick:** It would be nice for you people, it seems to me, to go to Ottawa and say we've been discussing it with members of our assembly, and so on. It's not a minority government problem.

**Mr. Chairman:** The NDP here disagrees with the NDP position there.

**Mr. Renwick:** I don't think there's a politician in this House who wants to fight the next provincial election on the constitutional issue in Canada. I just don't. I might say, sotto voce, neither do we want the Premier to ride to a sweeping victory on the basis of constitutional reform in Canada.

**Hon. Mr. McMurtry:** I am disappointed, quite frankly. Most days we are around here I see pickets representing various interests in the community and I have yet to see my first picketer protesting or advocating constitutional reform on the front steps of the Legislature.

**Mr. Renwick:** If you don't appoint that committee, Lawlor and I will be out there with Mr. MacBeth.

**Mr. Chairman:** I take it you've finished your questions, Mr. Renwick?

**Mr. Renwick:** I don't think it's necessary for me to start to question you about specific matters. I would hope that maybe this proposal would gain some credence and maybe we would have a forum to do it that would be more appropriate than your estimates.

My last comment is simply an afterthought. When we were talking about the RCMP, another area that suddenly came up a few days ago, of course, was the CUPW problem of the RCMP role in the entrance of those offices and the seizure of those documents and whatever purposes they were there for. I suppose in some strange way that could be justified in the province of Ontario because it comes under federal jurisdiction. I don't know the answer to it. I was surprised.

I can well understand that it poses a serious problem for the Metropolitan Toronto police chief and I read with interest his letter in the

paper when he indicated they weren't going to go in and start to arrest the pickets. So there's that kind of area as well which, with the issue of strikes in the public service being so high profile, may suddenly come upon us again.

**Hon. Mr. McMurtry:** The Supreme Court of Canada may be shedding some light on this issue in the not too distant future, but I'm not holding my breath, and that is in relation to the Hauser case that emanated from Alberta, because, as you know, they're trying again to define the role of the provincial Attorneys General with respect to the administration of justice as opposed, in relation to, that of the role of the federal Minister of Justice; it's not a satisfactory situation.

Certainly the role of the RCMP, or potential role of the RCMP in Metropolitan Toronto for example, was of concern to us. Quite apart from the seizure of documents they laid charges under section 115 of the Criminal Code, and I assume it was pursuant to those charges that these raids were executed. In my view the difficult issue was coming into focus very rapidly, and that is what would happen if the post office workers had decided not to go back to work, what would our role have been with respect to prosecutions and what would have been the role of Metro police? There are some very interesting issues.

**Mr. Renwick:** Very tough ones. Thank you, Mr. Chairman, and my colleagues, for your patience.

**Mr. Chairman:** Thank you, Mr. Renwick. Mr. Reid.

**Mr. T. P. Reid:** I won't say I will be as brief as—

**Mrs. Campbell:** As Mr. Renwick.

**Mr. T. P. Reid:** —Mr. Renwick, an hour and a half later; but I would like to add my support to the remarks of Mr. Renwick and Mr. MacBeth for such a constitutional discussion rather than a debate, because I think there has to be some mechanism where we get it out of the chamber where the partisanship sometimes creeps in on something that's more important to all of us.

I would say to the Attorney General that I certainly personally felt some frustration, but haven't been moved to ask any questions because in previous time the Premier has indicated that Ontario's position will be made known at the conference or—

**Mrs. Campbell:** In the fullness of time.

**Mr. T. P. Reid:** —in the fullness of time, which he is fond of saying—so that there hasn't been any sense in asking questions

before the fact and with the coverage the constitutional conference got after the fact there wasn't a heck of a lot to ask, it seemed to me, except perhaps one question that the Attorney General could clarify for me in my mind. I gathered from the news media that Premier Levesque had said he didn't see the point in the repatriation of the constitution. I wasn't aware he said, "at this time." It was my feeling that he didn't feel that was a matter of prime importance, primarily because he didn't expect to be part of Canada some time down the road and that was one of his lesser problems. Squaring that with how he would get out of the present constitution boggles my mind but perhaps you could illuminate the situation for us on that?

**Hon. Mr. McMurtry:** I certainly wouldn't presume to be able to illuminate matters on the latter part of your question, we'll leave that to the international constitutional experts to muse and reflect on that, because I think we're dealing with a very hypothetical situation.

**Mr. T. P. Reid:** That would be a good job for Renwick and Lawlor to engage themselves in over the next 10 years.

**Hon. Mr. McMurtry:** I don't want to bore you, but the role of Quebec in this constitutional—

**Mr. Renwick:** Go to Ireland and see how they accomplished it there.

**Hon. Mr. McMurtry:** The role of Quebec in these constitution discussions since November 15, 1976, has been a fairly interesting one. It has been much more a participatory role than most people had predicted, I think for fairly sound political reasons so far as their own parochial interests are concerned.

[5:00]

The position that the Premier of Quebec has taken consistently at this time is that he has a mandate to lead the government of Quebec, which is the government of the province of Quebec, the emphasis on the word "province." In other words, he was elected to lead a government of a province which is still part of Canada and part of his mandate is to obtain the best deal for Quebec in that context, i.e., as part of Canada, quite apart from his other goal of so-called sovereignty association. So the position that he's taken is, "As long as we're part of Canada, we'll try to get the best deal we can and we'll participate, and if we can reform the constitution and improve the lot of Quebec within the present constitution, we're quite prepared to be part of that process."

The matter of the patriation is I think related largely to a perception that Quebec has that if there were patriation without an amending formula, without some basic agreement as to division of powers, this would give the federal government more clout than it possesses at present. That is their perception and one can argue that, I suppose, at some length both ways. That is why they have said they oppose any patriation without resolution of these other very fundamental issues, namely the division of the powers and the amending formula.

**Mr. T. P. Reid:** It's an understandable position if one that perhaps one doesn't necessarily agree with. Perhaps we can leave those matters with—

**Mr. Renwick:** Perhaps Mr. Reid will allow me to ask my second question.

**Mr. T. P. Reid:** No, I'm sorry Mr. Renwick, you wouldn't allow me to—

**Mr. Renwick:** Allow me just for one moment.

**Mr. T. P. Reid:** You're presuming on an old and long and dear friendship and the odd bottle of scotch, but go ahead.

**Mr. Renwick:** The reason Premier Levesque thinks he can get out is that there was no quorum in the House of Commons when the British North America Act was passed.

**Mr. T. P. Reid:** I see. Some things never change. To some more mundane matters, Mr. Attorney General, I tried to interject and presume on that old friendship I just related to, which is obviously one-sided; Mr. Renwick cut me off in his own inimitable style. You mentioned that the three matters the RCMP were particularly involved in were revenue, immigration and drugs. You didn't say organized crime. Are they not part of your—

**Hon. Mr. McMurtry:** I said they're criminal. I mean they were also engaged in criminal offences, particularly those that had an interprovincial or international connotation or dimension. I assume that would include organized crime without going and spelling it out.

**Mr. T. P. Reid:** Part of the whole drug thing.

I have a parochial matter that I want to deal with first and it relates to the strike in Fort Frances of the woodworkers at Ontario-Minnesota Pulp and Paper Company, or now Boise Canada. I have your letter to me of October 12 in which you respond to some of my questions.

If you would help me just a little bit, one of the questions I put to you was the

fact that the local sheriff in Fort Frances had seized bank accounts of the workers who were then on an illegal strike and he had seized more money, as I understand it, than the Supreme Court had indicated would be available from these people. Some of that money, as I understand it, has not yet been paid back. You indicate in your letter that they're going to interplead with the Supreme Court. I take it your law officers will go to the court in order to have that money refunded. Is this the case, or are you going to discuss the whole situation before the court?

**Hon. Mr. McMurtry:** We would be representing the sheriff in those situations. As I recall from my letter, the advice would be that he should take advantage of the interpleader provisions in our law to determine who—

**Mr. Leal:** To whom it belongs.

**Hon. Mr. McMurtry:** Who is the owner I was going to say, but to whom it belongs is a more precise way of putting it.

**Mr. T. P. Reid:** Has a court date been set for this matter?

**Hon. Mr. McMurtry:** I can't answer that.

**Mr. T. P. Reid:** All right, I just have one other question. I found the matter of the bank accounts being seized something I wasn't aware could actually happen and by your response to my letter, you indicate that was the lesser of two evils, you might say.

**Hon. Mr. McMurtry:** That might well be the lesser of two evils. I think it was open to that—

**Mr. T. P. Reid:** I think the other alternative was to seize the chattels and property of the people involved. It seems to me—and I suppose there is some question—a very rough sort of justice, a rough way of going about dispensing justice in the province of Ontario. There is a question of whether the sheriff indicated to the workers or their representatives that this money was due and payable. You indicate in your letter that in fact the lawyers for the loggers were before the court and understood this and supposedly it was their responsibility to so inform the membership of that particular union.

The other thing that bothers me is rightly or wrongly, the company was required to sign affidavits that the men in fact had not returned to work and therefore were in contempt of the order of the Supreme Court. I'm not taking any positions for or against the company or the union on this, but it certainly puts the company in this particular instance in the position, at least in much of the public mind, of forcing these people—having their



bank accounts seized and the money not just being seized in the way it was but going into the bank account of the company rather than being paid into the court. It seems to me there must be a better mechanism or something better we can come up with than this present system.

**Hon. Mr. McMurtry:** I suppose the only alternative might be for the Ministry of the Attorney General to act in such a way as to uphold the integrity of the order of the court. As I think I point out in the letter, an issue that hadn't been addressed, at least in any questions or any conversations we had, is what should the role of the Attorney General be in relation to an order of a Supreme Court judge which has been deliberately ignored or flouted. I have to tell you that gives me great concern.

**Mr. T. P. Reid:** I can appreciate that and I can appreciate that that will keep Dr. Leal and others up nights thinking about it, but the alternative under the present system is that in the public's eye the company in this particular case was giving orders to the court to carry out something. Now we're not all—

**Hon. Mr. McMurtry:** No, I don't agree with that language. The court has made the order. It's a question of what are the mechanics of carrying out the order; it's not a question of the company dictating to the court.

**Mr. T. P. Reid:** I realize that and perhaps the lawyers realize it, but I think to the man in the street, the Frank Dreas of this world and the laymen, it appeared—and I can tell you there was a very strong reaction—in some of the newspapers that here was the company ordering the court what to do, which then put it in a situation where it appeared that an injustice was being done, or that justice was on the side of the company, which I don't think should have been the way. But, I'll leave that with you, I realize it's a difficult—

**Hon. Mr. McMurtry:** It's an unfortunate perception that may have developed—I mean you would know that far better than I—but of course the other perception that we had is that the Supreme Court judge had made an order—I think it was Mr. Justice Hollingsworth in this case—and that it was just being ignored. What was the perception of the value of the order of the Supreme Court if it wasn't being carried out? It's interesting. I suppose it depends on geography as to the perceptions that occur. One of my concerns was—not in relation to the role of the company because that seemed to be quite clear—

were we sufficiently concerned about maintaining the credibility of the Supreme Court?

**Mr. T. P. Reid:** I can appreciate that. Quite frankly, as a layman I don't see much choice other than for the Attorney General to enforce these orders. But I think some mechanism has to be worked out so that either the union or the company, whichever, not be placed in the public perception—regardless of what the law says—of directing the courts to come down on one side or the other in a labour dispute. However, we'll leave that for now.

**Mrs. Campbell:** It would be nice if he had the same intent for all court orders—

**Mr. T. P. Reid:** I can appreciate it's a thorny problem. However, at the Attorney General's invitation, I would like to ask whether or not you have set up some mechanism within your ministry to deal with or guide or oversee, whatever word the Attorney General might like to choose, investigative commissions, royal or otherwise, in Ontario, as recommended by the public accounts committee.

**Hon. Mr. McMurtry:** Yes, we have. This may be something we want to deal with at greater length when we get to that particular vote. Again, obviously, when we're dealing with a judicial inquiry our prime function is to assist the commissioner, who is usually a judge, to establish his commission and provide assistance where it is appropriate, but really it is up to the particular judge to determine what resources will be required to carry out his or her particular mandate.

For example, we may be able to suggest an appropriate fee or an appropriate maximum for a counsel that the judge retains, but the judge retains the counsel of his choice. The hours the counsel puts in, the amount of research, or indeed research assistance, that is required again is solely within the discretion of the judicial inquiry.

Were it to be otherwise, then we would be in a rather ludicrous position whereby we would be asking a judge to inquire into a certain state of affairs and then of course the allegation would be that we were tying the judge's hands by telling him he can only spend so much of the taxpayers' money in this area or that area. Obviously the role in that particular situation must of necessity be a limited role in relation—

**Mr. T. P. Reid:** Let me interrupt the Attorney General, if I may. Nobody is suggesting perhaps even going so far as setting budgets, but surely the manual of administration could be used, or some guidelines or some assistance. I recall Miss LaMarsh. Her point was,

"When I took this job nobody told me anything so we just went out and did it."

**Mr. Sterling:** She sure did.

**Mr. T. P. Reid:** She certainly did. Patrick Hartt was given almost a quarter of a million dollars on good faith. These people are not stinting. I don't expect them to live at the YMCA or YWCA or even to eat in the parliamentary restaurant, but really it seems to me there has to be some control, saying, "Look, this is what you can do, following laid-down government procedures."

I don't think you will restrict anyone by doing that, nor would you be in a position. [5:15]

**Hon. Mr. McMurtry:** There are, as I indicated, general guidelines and they were revised, I see by the document that has been handed to me, in September of this year. I have a publication—and we could get copies of this—that states the administrative guidelines and procedures prepared by Management Board for commissions and royal commissions and judicial inquiries.

**Mr. T. P. Reid:** Are they required to follow that?

**Hon. Mr. McMurtry:** They are called guidelines.

**Mr. T. P. Reid:** Under the federal system, right in the order in council generally, they are told that they must follow the manual of administration of the treasury board. Here, while these guidelines are available, if a commissioner does not feel that he or she wants to follow them, they can apparently go out and do almost whatever they wish.

**Hon. Mr. McMurtry:** These guidelines are very comprehensive and you will have an opportunity to look at them. I can't give you the details. Certainly it is not an area in which I would pretend to have much expertise.

**Mr. Leal:** If I may, I would perhaps be of some help if I were to say that in the spring of 1977 Management Board of Cabinet approved the first set of administrative guidelines and procedures for royal commissions and judicial inquiries.

When we received those, the guidelines were printed by our ministry and copies were passed to all royal commissions and judicial inquiries which are funded through the Ministry of the Attorney General. They all received copies.

In addition to those which have now been revised as of September 1977, copies of volume one of the Ontario manual of administration and the manual of administra-

tion issued by the Ministry of the Attorney General have been directed and issued to the chairman of all commissions as well as commissioners. The correspondence that went out with them stated in part: "The manuals outline in considerable detail both provincial government and ministry policy relating to a wide variety of administrative matters and will serve as a useful reference to your staff in matters relating to the administration."

While these manuals are not directly applicable to royal commissions, they have been accepted as a good reference point and a supplement to the administrative guidelines which have been issued by the Management Board.

**Mr. T. P. Reid:** The gist of all that is that they are under no compulsion to follow either those revised rules or the manual of administration of Management Board, really.

**Hon. Mr. McMurtry:** I am not so sure that is the way I would express it. These are very comprehensive, and when you say "compulsion", if they are not followed there may be no compulsion on the part of the government to pay the bill, it works both ways. I am not just sure what you mean by "compulsion" in this context.

You are talking about the LaMarsh commission. I am handed here a memorandum dated July 8, 1975, where that commission was given a directive from the manual of administration which sets out "the government's policy in purchasing includes public relations, design, graphics, film-making, printing, et cetera."

**Mr. T. P. Reid:** But we found in the public accounts that wasn't followed as closely as some of us might well have thought. But I take it, in response to my earlier question, that there has not been a particular office, nor particular people in your office to deal with.

**Hon. Mr. McMurtry:** Oh, yes.

**Mr. T. P. Reid:** I mean other than those people who deal with royal commissions or investigative commissions that would fall normally under your jurisdiction?

**Hon. Mr. McMurtry:** I'm not sure I understand that question. We have an individual who happens to be with us this afternoon—

**Mr. T. P. Reid:** Mr. McLoughlin?

**Hon. Mr. McMurtry:** —Mr. Clendinneng, who is in charge, this is his administrative responsibility.

**Mr. T. P. Reid:** For all royal commissions and all investigative bodies, regardless under whose ministry they fall?

**Hon. Mr. McMurtry:** Most of them are done through our ministry. I don't know which ones wouldn't be done through our ministry.

**Mr. T. P. Reid:** The Hartt commission was under the Ministry of the Environment.

**Hon. Mr. McMurtry:** That's right; and Porter.

**Mr. T. P. Reid:** I just have, à la Mr. Renwick, two small items left.

**Mrs. Campbell:** Mr. Renwick has left us.

**Mr. T. P. Reid:** I think that's very unfair of him, after I listened to his small items for an hour and a half.

**Mr. Chairman:** He listened to the first question, though.

**Mr. T. P. Reid:** I raised this matter with the Attorney General a couple of years ago, and I have had various resolutions from towns in my area. It is something that concerns me, the increase in vandalism and break-ins and damage to property. The courts apparently have taken the approach that if someone is caught damaging property, whether public or private, as punishment the court will often direct that particular person do work in the community to make up for the damage caused.

**Hon. Mr. McMurtry:** Or pay direct restitution.

**Mr. T. P. Reid:** That seems to be the problem. You indicated to me that you had given instructions to your crown attorneys that they should ask the court for restitution. From my very limited knowledge in this respect, it would seem that the courts aren't asking for restitution. In Toronto, for instance, there was about \$1.5 million worth of vandalism to the school sector last year and restitution is not being paid.

I'd like to ask the Attorney General if he is satisfied that restitution is being paid. I presume you don't call judges in and tell them anything. They seem to get rather high and mighty when they get appointed.

**Mrs. Campbell:** Oh, I would think justifiably so they wouldn't be called in by the Attorney General.

**Mr. T. P. Reid:** Except in family court, of course. Maybe a suggestion could be made again to the crown attorneys that restitution should be paid. In the case of minors, perhaps the parents could be forced to pay. This doesn't seem to happen a great deal in my area, at least it is not public knowledge.

**Hon. Mr. McMurtry:** There is some provision under the juvenile delinquents legislation in relation to parents. This particular aspect has been an enormously difficult problem for the very simple reason that courts which have pursued this with some enthusiasm have found this can cause great disruption within the family. When parents who have a difficult child and are trying to control and provide guidance for the child all of a sudden get creating lasting breaches within the family, child, it can destroy a family relationship.

So the courts have to measure the wisdom of making an order against the parents in those circumstances—the advantages to the community as opposed to disrupting or creating lasting breaches within the family.

Looking at it in practical terms, if you have a difficult little rascal and your patience is being tested every day just to provide a roof for the little so-and-so, and then on top of that you are suddenly told to pay off a \$2,000 bill—

**Mrs. Campbell:** Two thousand; \$40,000.

**Hon. Mr. McMurtry:** Or \$40,000—there are no ready solutions. Certainly the community work programs we hope will be developed to a greater extent in the family courts. There are problems, obviously, when you are talking about children under the age of 16.

We have instructed and continue to direct the crown attorneys to suggest orders of restitution, particularly when the cloud was removed. As you know the Supreme Court of Canada not so many months ago decided that these orders were within the jurisdiction of the Criminal Code—that a section in the Criminal Code that gave the courts the authority was constitutional although the Court of Appeal in Manitoba had ruled otherwise. But in any event, that was resolved and one would hope we will see more restitution.

On the other hand you are, of course, dealing with the basic problem related to blood from a stone. Unfortunately, that is the situation these courts are faced with in the great majority of cases.

**Mr. T. P. Reid:** Not an easy problem, obviously.

I just have one more before my next one, this will wrap it up for me.

That deals with something that no doubt has been a bugbear for the Attorney General. I have copious correspondence, as the Attorney General no doubt has, from Mr. David P. Jones, who was a professor of law at McGill University. Basically the problem here, for the edification of other members of the committee while the Attorney General is



being filled in, because I don't think he ever did answer my last letter—

**Hon. Mr. McMurtry:** My ever-faithful advisers may not have allowed me to see it yet. They might have felt that it had to cool down a little bit.

**Mr. T. P. Reid:** It is getting older than the Dead Sea Scrolls.

**Mrs. Campbell:** I know somebody you can get to find it.

**Mr. T. P. Reid:** In any case, the situation very briefly is that Mr. Jones was a professor of law at McGill University. I believe he had been a Rhodes Scholar, a Commonwealth Scholar, received his legal training in Great Britain and returned to McGill to teach law.

One of his duties was, of course, to teach citizens or people in Canada, or from elsewhere, who subsequently came to Ontario and applied for admission to the bar in Ontario.

When Mr. Jones himself applied to the Law Society of Upper Canada, Mr. Jones was told that he was not eligible under regulation four of the Law Society of Upper Canada because he, in fact, had not received any legal training in Canada. The anomaly of course is that here he was teaching other students who then subsequently came and were admitted to the bar in Ontario with no problem at all.

I might say Mr. Jones is unknown to me except by copious quantities of correspondence, as I said, but he has received no redress of his plea or his application.

It seems to me that he has a valid point. It seems to me that if the regulations of the law society are such that they are going to discriminate against people who have had the opportunity to study abroad and who certainly, I think the Attorney General would agree, have some competence in the law in Canada and Ontario, that it brings into disrepute self-regulating organizations such as the Law Society of Upper Canada.

[5:30]

You yourself have had correspondence on occasion from Mr. Jones, who if nothing else is certainly persistent. I think his persistence should be rewarded in some degree—at least through hearing the Attorney General's response to all of this.

**Hon. Mr. McMurtry:** I think the Deputy Attorney General is more familiar with this particular case and probably the regulations. As you know, there is a professional organizations committee, which is being chaired by the Deputy Attorney General, and this is one of the issues they're looking at.

The law society also is continually reviewing its procedures in relation to admittance from other schools. Obviously—leaving Mr. Jones aside for the moment—there are some law factories in jurisdictions whereby I don't think the citizens of Ontario would be necessarily well served. Just because people purport that they have a law degree from a law school from somewhere, and that it should be an automatic admission—

**Mr. T. P. Reid:** No, I'm not even suggesting that.

**Hon. Mr. McMurtry:** I'm not saying you are.

They must have certain standards, and they have to determine what is an accredited law school. Perhaps, Mr. Deputy Attorney General, you could take it from there.

**Mr. Leal:** Professor Jones's difficulty is that he has not got a degree in law from an institution approved by the Law Society of Upper Canada which will enable him to gain admission to the bar admission course, to pass those examinations and to go to the Ontario bar. Nor does he have a sufficient period of practice as a lawyer in another Canadian province which would allow him to take the special examinations set by the Law Society of Upper Canada—apart from the bar admission course—and, on successful completion of them, to be called to the bar of Ontario.

He has neither of those types of qualification. What he does have is a bachelor of arts in honours jurisprudence from the University of Oxford. I don't know whether he has the BCL degree as well, but that doesn't matter. The fact is that at the moment neither Professor Jones nor anybody else can satisfy the entrance requirements to the bar admission course without getting an LLB degree from an approved Canadian law school, which includes the common law section of McGill University faculty of law in Montreal.

The Attorney General, with respect, is right. This is a matter that the professional organizations committee is looking at, not only in the legal profession but also in engineering, architecture and accounting, to see what sort of accommodation can be arranged across this country to enable a greater degree of mobility in the practising professions to move from province to province without disadvantaging oneself.

It's a tough problem, sir. It's a tough problem even for students who are educated in Ontario and going to Alberta to enter high school out there; they can't always do it without losing a year. Indeed, the loss of a year is more general than not.

That's what we're up against, and those are the things we are considering.

The other thing, I would just add briefly, is that there is a subcommittee of Ontario law deans dealing with this very problem to try to work out some sort of equivalents whereby people like Professor Jones who have an Oxford degree in law could get what they call standing ad eundem gradum, which is equivalent standing in an Ontario law school, take an Ontario degree and then move in. But it's the Ontario faculty which would dictate what additional courses, if any, he would have to take in order to get the Ontario degree and therefore move into the bar course.

Superficially it seems like a tough case but there are literally hundreds of those.

**Mr. T. P. Reid:** May I read into the record a special petition to the Law Society taken up at its meeting of January 13, 1977: "The committee considered a petition from a member of the Alberta bar who has been teaching at McGill University since 1974. He holds a certificate from the University of Alberta stating that his law degrees are equivalent to the LLB degree granted by the University of Alberta. The committee also considered a letter from the petitioner in which he applied to proceed under regulation 4(1), or in the alternative to enter the bar admission course on the strength of his academic qualifications; and he was denied."

**Mr. Leal:** There are two things about that, sir. The first thing is that he doesn't hold an Alberta degree. May I point out that it is careful to say he holds a certificate, which they say is as good as the Oxford degree, but he doesn't have the Alberta degree. That's the first thing.

The second thing is he doesn't have three years' practice in Alberta. What he is saying—and he has said it to me on many occasions because I've been on the other end of those calls—is that three years of teaching law at the faculty of Law at McGill should be equivalent to three years of practising law in Alberta. You might sell me on that; you can't sell the law society on it. He's tried, that's his problem.

**Mr. T. P. Reid:** There's nothing to be done for this gentleman?

**Mr. Leal:** Not at the moment. Well yes, he can pick up an approved LLB from some Canadian law school, and then he can take the bar admission course and he's in.

**Mr. Lawlor:** He needs to go back to law school.

**Mr. Leal:** But this is a man of principle, he won't do any of those things.

**Mr. T. P. Reid:** I can understand why, having received a degree in England and

having taught the course that allows other people to join the bar, he might feel that perhaps that entitles him to do so. It seems to me to be a reasonable proposition.

**Mr. Leal:** He could get that qualification by going to Oxford in three years after grade 13; it would take him a minimum of seven years to get it here. He could beat the system by four years. That's what's involved, it's as serious as that.

**Mr. Lawlor:** May I ask what makes you think teaching at a law school qualifies one to practise law?

**Mrs. Campbell:** Exactly.

**Mr. T. P. Reid:** The Attorney General must have been a professor at one time.

**Mr. Lawlor:** Can he get admission to the Quebec bar?

**Mr. Leal:** No.

**Mr. Chairman:** Further questions, Mr. Reid?

**Mr. T. P. Reid:** No.

**Mr. Eaton:** These are pretty general. I want to raise the question of property rights. For some time, the Ontario Federation of Agriculture and a number of other organizations have pressed for changes in the Petty Trespass Act. Last year at this time I introduced amendments to the Petty Trespass Act which got support on second reading in the House. Of course, like any other private member's bill it sat there and has not been dealt with except that a couple were manoeuvred through our justice committee—or maybe one.

**Mrs. Campbell:** Don't say "manoeuvred".

**Mr. Eaton:** Certainly it was. Anyway, I would like to know when you're going to do something about this serious problem, which is becoming more serious all the time.

**Mrs. Campbell:** Mr. Chairman, I'm sorry. I have sat on this justice committee, and on a point of order I'd like an explanation of the use of the term "manoeuvred".

**Mr. Eaton:** I don't think that needs to be dealt with at this time. I raised it at that time.

**Mrs. Campbell:** You raised the question and I think it's a matter of privilege.

**Mr. Eaton:** Private members' bills came in order, they were dealt with in order in the House and all of a sudden one could be rushed down and brought before a committee, and all of the others brought up prior to that one were left sitting on the order paper. Anyway that's beside the point at this time.

I want to talk to the Attorney General about the Petty Trespass Act because it's becoming an increasing problem, this continued pilfering of farm produce with no recourse whatsoever for the people who are affected by it.

I once again raise the example of a case that took place in our area where a person was caught going out of an orchard with a bushel of apples. He was taken in before the judge. The judge made a big joke out of the fact that he stole apples when he was a kid, and ordered the person to make restitution for the apples, which amounted to \$4 or so, and write a letter of apology. The letter of apology should have gone through the judge because the letter of apology contained snide remarks about having to be in court because of the action of the farmer. A little note at the bottom said, "I'm paying an extra one cent to pay for the other losses you've had and I hope you have an early frost." To me, it is ridiculous justice for the judge to have let him get away with that sort of attitude in the situation.

**Mr. Chairman:** It is only because he had a snowmobile that he wanted to run over the farmer's field with.

**Mr. Eaton:** If I went into Dominion Stores and picked up a three-pound bag of their apples and walked out with it I'd be charged with theft and shoplifting; but you can go in and take the produce off the farmer's trees and get away with it.

There are other cases where they're finding the same thing. If someone goes in and takes them when they're not ripe or ready yet they say they're of no value on the market. Nothing is done. They may not be of value at that moment but they're being sprayed, they're being cared for, there's cost put into them and within a month or so they would be ready for market. It's a loss, not only of the produce but from the way they treat things when they go in through the damage they do to trees and the damage they do to property.

The bill I introduced amending the Petty Trespass Act had some teeth in it. It got good support in the Legislature. It got strong support, not only from rural communities but from urban communities. The only area where we got some objections to that bill was from hunters in Ontario over the written permission part, where they have to find the owners of the property in some remote areas of the province. I can understand their problems, although it's been introduced on Manitoulin Island for the deer hunting season. If you're going to hunt deer on Manitoulin Island you have to have at-

tached to your licence before you go on anybody's property the written permission of the owner to be on there.

John Lane informs me that the hunters are going out now before the hunting season opens, finding out who owns the property and getting the permission attached to their licences. It appears it is going to work well. I don't see why we can't proceed to do some of this in the rest of the province to give the owners some property rights.

Failing that, I'd make a suggestion to you that perhaps we go with the other amendments that are there and shift back to that ridiculous part that says if you go into lawns or gardens or enclosed yards you're trespassing. If I walk across your lawn in the city or go into your yard I'm trespassing. I suggest you add to that section cultivated land, pastures or orchards. That would leave out some of the bush country in northern Ontario that is pretty wide open where no one knows exactly where the boundaries are or what the ownership is. It would protect those areas of produce in southern Ontario; and where the farmers don't want people in their bushes, it could protect them. In cases in southern Ontario most of the bush property is surrounded by cultivated land. You've got to cross the cultivated land to get to it, so you're going to have to go and ask the owner's permission to get in there.

I don't think that's of great concern to many of the hunters, because the really serious hunters in southern Ontario usually go and ask for permission. If they ask, most farmers, knowing who they are and knowing the fact that somebody's going back there, don't refuse permission. I know we don't on our property. If somebody comes and asks we let them go in, provided there aren't cattle in the particular area they want to go to.

I think many farmers are co-operative that way with hunters and that's a problem we can get around. But people laugh at you if you tell them to get off your property, because you've got no way of enforcing it whatsoever. I think something needs to be done now before the problem gets any worse because each year it seems to increase.

[5:45]

With respect to the kind of crops in our area that are grown—sweet corn, tomatoes and this sort of thing—people just have no regard for the fact that they are on private property. I believe in the last couple of years it's got quite a bit worse. The Petty Trespass Act as it is is a farce. In the Hydro thing, when some people broke in and took over those offices, they have been charged with



petty trespass. What the heck does it mean when they might be fined up to \$100 for it?

It's really ridiculous. I think a program of increasing the fines, removing the liability and getting written permission can be carried out so that it works for both the hunters, the farmers concerned and the true sportsmen who want to go hiking or anything else. They'll get their permission. It'll give some teeth to the law to protect people who need some protection for their produce and want to keep people off their own private property and bring back a few property rights in Ontario. It's got so that it doesn't mean too much to own something of your own any more. Anyone can have the right to cross it. A lot of people feel they have that right once they get outside the cities. Because it's out in the country, it's a little bit more open and you have no rights as owner of that property.

I would hope that the Attorney General would take heed of the bill that's in the House and of some of the suggestions I've made and perhaps move as part of government to bring about these changes.

**Hon. Mr. McMurtry:** I am well aware of your frustration and that you're speaking on behalf of many thousands of farmers, in particular, across the province. There are certain aspects that I might just deal with at this point in time. I know I've spoken to the Ontario Federation of Agriculture about this problem.

First of all, with respect to inappropriate sentences, the sentence that you refer probably had nothing to do with the Petty Trespass Act. It unfortunately reflected the attitude of the particular judge. I'm sure that individual was charged with theft. The law had sufficient teeth to deal with that and a stiffer sentence would, in my view, have been obviously more appropriate. It may be breaking and entering that people should be charged with. You mentioned the Hydro situation. I'm not familiar with the details.

What we've attempted to do is direct our crown attorneys in the rural areas to persuade the judges to take a more serious view of this matter when it happens. I suggested at the annual meeting of the Ontario Federation of Agriculture that I attended a couple of years ago that it would be very helpful to me if they would indicate to their membership that I would like to be advised of cases where the sentences seem to be particularly lenient right away so that we could at least consider an appeal. That was one route. Unfortunately, I don't know what's happened to that suggestion. I suppose to that limited extent I was suggesting something that I thought would

have been helpful while we are straightening out the matter of the Petty Trespass Act.

As you know, we were hoping to bring in some occupier's liability legislation which would have incorporated the Petty Trespass Act. That got bogged down.

**Mr. Eaton:** Thank God. We would have had all of Ontario plastered with signs. The sign painters would have done a magnificent job and made money hand over fist.

**Hon. Mr. McMurtry:** I suppose it's just fair to say that there has been some internal debate going on within the ranks of the government side as to the appropriateness of our proposal. I think you appreciate pretty well some of the problems with respect to your bill, which did receive wide support—the principle of the legislation. Mind you, I'm not a hunter, so I'm not overly sympathetic to the problem of hunters, I suppose. But I certainly would distinguish between hunters and hikers. I sure think that somebody carrying a gun around should have some sort of written permission. But the difficulty is that living in the type of great wide broad geographical mass that we do, it is very difficult for people, families, ordinary hikers, who just want to walk in the countryside, to know whose property they are on, whether it's privately-owned or publicly-owned.

**Mr. Eaton:** In southern Ontario 99 per cent is privately owned.

**Hon. Mr. McMurtry:** In Ontario 80 per cent of the property is owned by the crown.

**Mr. Eaton:** I said southern Ontario. Southern Ontario is where the problem is. There's no problem away up north.

**Hon. Mr. McMurtry:** We can't have one law for southern Ontario and another for northern Ontario.

**Mr. Eaton:** May I just draw to your attention, while you're commenting on the written permission and the hikers and so on, we brought that legislation in for snowmobilers. Snowmobilers are required to have written permission and I will tell you it has worked very, very well in our area. They've gone out, they've gone through areas and got permission to set up their trails.

Before we had that legislation I would get 50 calls in the winter over snowmobile complaints. Last winter, one, and that was on the edge of the village over noise. They worked well with written permission to set up their trails across those areas. There is no other way they would get that kind of cooperation except for the fact they've gone to the people, they've talked to them and

they're policing it, you might say, through their clubs and so on. It's working very well.

**Hon. Mr. McMurtry:** The undertaking I can give you at this time—as I think is obvious—is that the occupiers' liability package will not see the light of day this session—

**Mr. Eaton:** As a package I hope it never does.

**Hon. Mr. McMurtry:** —so before my estimates are over I'll get back to you with some proposals. I think maybe we should try to amend the Petty Trespass Act, pending any introduction of broader packages of legislation, and put further teeth into it. I'll discuss this again. Quite frankly, I haven't discussed this with our policy people for some time, but I will discuss it with them within the next several days and get back to you before we conclude our estimates.

**Mr. Eaton:** Thank you.

**Mr. Chairman:** We have a list and I just wanted to advise the members—Mrs. Campbell and then Mr. Stong.

**Mrs. Campbell:** Don't we adjourn for the vote?

**Mr. Chairman:** I haven't been advised that there would be a vote.

**Mrs. Campbell:** No, they don't ring a bell.

**Mr. Chairman:** may I just ask you a question? I have been interested in the discussion that has been taking place on this bill. However, I would like clarification. On

the bills which this committee dealt with during the summer session, were they not specifically referred to us for consideration? I was not aware that we had any choice.

**Mr. Chairman:** This committee has no choice over what matters it deals with. We deal with those matters that are referred to us by the House. On at least one occasion we brought in a resolution asking for permission from the House, but that was a resolution passed by the committee and the House had to agree to it. So in no way are we playing favourites with bills. If the member is not satisfied that he is getting his bill or some other bill dealt with by this committee, he should speak to his House leader and if he has some influence over that person then perhaps the bill might come before the committee.

**Hon. Mr. McMurtry:** We will be going to what time to-morrow afternoon?

**Mr. Chairman:** Four o'clock. We will adjourn for an hour at lunch to allow the—

**Mrs. Campbell:** You said something about 12, I think the urgency for that particular timing is past, since Mr. Taylor can't be present. So if you wish to go longer, it is all right. But we will be meeting.

**Mr. Chairman:** Let's deal with it tomorrow, Margaret.

**Mrs. Campbell:** Okay.

The committee adjourned at 5:55 p.m.

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CONTENTS

---

Thursday, November 2, 1978

Law officer of the Crown program .....	J-329
Adjournment .....	J-349

---

SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
Eaton, R. G. (Middlesex PC)  
Handleman, S. B. (Carleton PC)  
Lawlor, P. D. (Lakeshore NDP)  
MacBeth, J. P. (Humber PC)  
McMurtry, Hon. R.; Attorney General, Acting Solicitor General (Eglinton PC)  
Philip, E.; Chairman (Etobicoke NDP)  
Reid, T. P. (Rainy River L)  
Renwick, J. A. (Riverdale NDP)  
Sterling, N. W. (Carleton-Grenville PC)  
**From the Ministry of the Attorney General:**  
Leal, H. A., Deputy Attorney General





# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

**Administration of Justice Committee**  
Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Friday, November 3, 1978

Morning Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

FRIDAY, NOVEMBER 3, 1978

The committee met at 11.41 a.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1301, law officer of the crown program; item 1, Attorney General:

**Mr. Chairman:** We have 12 hours and 11 minutes left in these estimates. As often happens in all estimates, we're still on the first vote and matters that I really feel shouldn't have been raised under the first vote have been dealt with in a very adequate and certainly comprehensive form. But we're still on the first vote, vote 1301, item 1. Mr. Stong was on my list; Mrs. Campbell and then Mrs. Stong—Mrs. Campbell and Mr. Stong were on the list.

**Mrs. Campbell:** Yes, I think it's not Mrs. Stong.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** Yes, well, Mr. Chairman, I just wanted to make a brief reference to the discussion on the constitutional issue yesterday. I think on one occasion I was very tempted, and indeed prepared a question for the Premier (Mr. Davis), but it seemed to me that this is one of those occasions when really the question period is not adequate to try to flesh out anything of any significance.

I too would very much welcome the opportunity to have input into any discussions pertaining to the constitution, although I must hasten to say that in the course of my travels in the riding of St. George—and I suppose I now include downtown Toronto à la minister Claude Bennett—I have not found it to be a matter of urgent public concern, as I move. Nevertheless, the question of the constitution of our country is something which oughtn't to be a partisan issue. I would say this; as far as I'm concerned I leave myself open to the right to disagree perhaps, but I think that it's important that we should try to achieve some consensus to give strength to those who are representing this province at these meetings in February.

**Hon. Mr. McMurtry:** I must say, for the member's information, I've discussed this

matter with Mr. Wells since our meeting yesterday and he's just as enthusiastic as I am about holding such a meeting with interested members of the Legislature. Mr. Wells reminded me that his estimates are just starting, so that will have to wait probably to the completion of his estimates. We will be very pleased to arrange the appropriate forum.

**Mrs. Campbell:** Proceeding then to items which I think are really properly in the first vote, I would ask a quick question of the Attorney General. That is, can he move once more to try to effect a meeting between himself and the critics of the other two parties to have a further look at the succession law reform bill, having in mind the fact that I am very much of the opinion that we are muddling two philosophies in that act, vis-à-vis the family law package?

[11:45]

I have said before, it seems to me in the family law package we have established marriage to be an economic partnership, but in the succession law reform legislation, while we have nullified the previous legislation, we seem still to view it somewhat in the philosophy of the Dependents' Relief Act. I think there is a dichotomy which we ought to be looking at.

I've had a number of ladies who have called to ask, "When our husbands are on their deathbed is that the time when we seek a divorce so we can have some protection?"

**Hon. Mr. McMurtry:** Just keep them away from their lovely secretaries while they're on their deathbed.

**Mrs. Campbell:** Oh, I think the ones who have discussed it with me have no real worries about that.

I would like, if I might, to address myself briefly to Bill 74. I recognize that we will have an opportunity for this later but I have some, as it were, preliminary questions simply because I have not yet reported to our caucus because it has been removed down the road. I would like to be very clear in my reporting to caucus on the position.

I am particularly concerned about sections 6(2) and 6(3), because I can't understand quite why a person would plead not guilty and indicate that he didn't wish to appear or



be represented, knowing that there could be a trial called without further notice to him, or to her apparently. I don't share Mr. Lawlor's concerns about the removal of the right to remain silent to the same extent. Obviously it's there, but I think that what we've been doing in our offences has been even worse.

I would like to say, Mr. Chairman, that I have a daughter who will, I think, go down for the rest of her life believing there is no justice in this province and this is related just to the simple matter of parking. This is what is happening in our society without this bill so maybe this will assist. But this was a case where she drove her sister home to Finch and Warden one night, arriving somewhat short of midnight. It was a cold and blowy night. She went in to have a cup of tea with her sister before starting the long trek home. She came out, drove home, and subsequently got two summonses. There were no tickets on her car but there were two summonses, both returnable for the same day. The difficulty that she faced was one was returnable at the old city hall, the other was returnable in Scarborough; one at 10 o'clock in the morning and one at 1 p.m. She felt very seriously that she was almost in a position of what she called blackmail; obviously she couldn't do it so she just paid it, but she goes down in history as one of your irritated customers in the city.

So the fact that you can, in these cases, have some kind of representation is a step forward.

I'm concerned about the vagueness and breadth of the term "offences" in this bill, because I think when you first look at it you're inclined to think in terms of highway traffic or bylaw offences. But when I look at the scope of provincial jurisdiction I am deeply concerned and I would like to have some fleshing out of that for my benefit.

I am puzzled about section 11(1) because the provision in the bill is for personal service and I don't quite understand the reference to "cases in which the delivery of a necessary notice or document failed to occur in fact."

In the white paper it was suggested that the explanation would contain a theory but would not be adequate in situations where evidence is required. I think there has to be some clarification as to what we're talking about when we talk about explanations in this matter. You are aware that the community and legal aid services program, CLASP, say that they support the option of the written explanation but you do need to improve the procedure allowing for it.

I'm inclined to agree with them, subject to what explanation I can get from the Attorney General in this fleshing-out process.

There are further questions. I think some of them I may leave more appropriately to the discussions of the bill, but I at least would like to debate the bill with some degree of intelligence and I would like to hear from the Attorney General in this matter.

I'm beginning to look at this whole question of our courts and our court procedure and I'm wondering whether we're trying to regard it all as something like a giant toothpaste tube; we squeeze out at the top and at the bottom we have a residue which we tend to almost remove from the court at all. It concerns me that it may really mean that we are moving into the area of merchandising justice, which is offensive to me.

**Hon. Mr. McMurtry:** I'm totally at sea as to what you mean by your previous comments. If you'd like to clarify them for me it may be of assistance.

**Mrs. Campbell:** Which one of them?

**Hon. Mr. McMurtry:** Your comment about merchandising justice, I don't know what you mean by that.

**Mrs. Campbell:** Well, it may be clarified somewhat more specifically later when I discuss some of the actual situations in the courts. What I am worried about is that we have spent a good deal of time and concern in courts such as the divisional court and so on, and we have dealt with some-time considerations with the provincial courts, but we seem to be moving to a spot where we're moving some things out of the courts which may be of great significance to the individual involved.

I guess that is what I am referring to, both with reference to small claims and with these procedures. We did have a principle at one time that everybody is entitled to their day in court. It is somewhat preserved in this, one has the right, but it seems as though we are looking at matters as though, well, there are some that really shouldn't take up the time of the courts and we can deal with them in some other way. It's an impression of the perception that some people have.

**Hon. Mr. McMurtry:** Well, I think it's the wrong impression—

**Mrs. Campbell:** I'm sure you do, and I'm addressing it openly—

**Hon. Mr. McMurtry:** —because the legislation in effect accomplishes the opposite: greater and easier and less expensive access to the courts.

**Mrs. Campbell:** Fine. Have you any comments on the other matters relating to the bill itself and the sections I mentioned?

**Hon. Mr. McMurtry:** Well, I don't have the bill in front of me, but if we want to deal with this I can—a bill has just arrived.

**Mrs. Campbell:** No, I'd be very happy to have you give me answers later if you wish to.

**Hon. Mr. McMurtry:** Or if you want to discuss it now, Mr. Campbell, who has been very involved with the development of this bill, has returned and I might ask him to participate. I will make some general observations.

**Mrs. Campbell:** I would welcome that and I don't want to take up the time of the committee for anything more specific at this point. I would be delighted to hear later on it, but I have some of these concerns.

**Hon. Mr. McMurtry:** I just want to stress the fact that with respect to giving people the opportunity of submitting an explanation without attending, it is a right, in my own experience in the highway traffic courts, that has been very considerable, not so much in recent years, but certainly in the early years of my practice.

Certainly one of the interesting phenomena that I encountered and what we've attempted to deal with in this bill is the fact that many citizens wanted to have an opportunity to indicate to the court in effect what amounted to mitigating circumstances of one kind or another. They weren't so much quarrelling the technical guilt or innocence, but felt a very understandable human desire to explain the mitigating circumstances.

The illustration we've often used, for example, was the wet leaves on the roadway which prevented them from coming to an adequate stop, perhaps. Of course with Ontario, where the climate is as diverse and as difficult as ours is from time to time, this phenomenon is of particular relevance to our courts. In many of these cases people would take time off from work, go in and say, "Well, look, I didn't stop but these were the circumstances." What we've tried to do in this legislation is give people the opportunity of writing an explanation and having that considered by the court, a right which individuals, as you well know, did not possess before.

**Mrs. Campbell:** That's right.

**Hon. Mr. McMurtry:** So in our view, fundamental to this legislation is the affording to our citizens of greater access to the court system and at the same time maintaining the fundamental and absolutely

essential right of having their day in court and requiring the crown to prove their case. That is enshrined in this legislation. But for those who are faced with the difficult decision of taking time off work as opposed to paying a small fine and losing one or two points—which may or may not be important to them; to some people it is very important, to others less so—we have provided different remedies such as the writing in of the explanation. Obviously, that is not likely to afford a complete defence but people aren't so much interested in that.

Secondly, we tried to arrange a system whereby people can drop in informally before a JP and again perhaps plead guilty with an explanation, which could amount to a suspended sentence, or I suppose a JP could even dismiss the charge. But again, it would be without this formal structure and without having to go through the full panoply of a court hearing, so that was another manner in which we were giving the citizens of the province greater access to the courts.

What we've tried to do in this legislation is not merchandise justice, but recognize to a greater extent than what has happened in the past, the human dimension of these proceedings and try to put it on a more human plane than what has happened in the past. With respect to the fact that people, true, will have to indicate their desire to have a full trial in many of these cases, we do not think that is placing any unfair onus on individuals. There are just hundreds of thousands of cases every year in this province where people have no intention of appearing, where police officers and other citizens appear, but the individual who is charged with what is usually a relatively minor offence doesn't bother appearing at great expense to the taxpayer through wasted police resources and inconvenience to thousands of the citizens, when the individual who is being charged hasn't the slightest interest in appearing.

[12:00]

On the other hand, we are affording this easier access to the individuals to the courts but, on the other hand, we are saying that your fundamental right to a full trial is absolutely preserved. But in these range of cases at least you have this responsibility as a citizen of the community, before you put the state and your fellow citizens to the expense of a formal trial, to indicate your desire to want one. I don't think that this is very unreasonable because in any other hearing, in any civil proceeding, it's the responsibility on the individual to assert his right. We think in these cases that at least that requirement that they make some posi-

tive effort to assert their right is in the public interest.

Mrs. Campbell: Could I interrupt you just for a moment?

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: The two examples you've given us are very clear and understandable, but they seem to address themselves to what is tantamount really to a plea of guilty with mitigating circumstances. My concern is where the plea is not guilty and what has to be adduced as between your white paper explanation and the bill itself. You talk about an explanation. Does that mean that you must produce all the evidence that you would in the normal course produce in a court of law?

Hon. Mr. McMurtry: The crown must.

Mrs. Campbell: Yes, but I meant it by way of a defence. I'm talking about the person who is charged and pleads not guilty and then submits an explanation.

Hon. Mr. McMurtry: There really then would be a discretion on the part of judges. As I understand the legislation, if the person doesn't want to appear in person and simply wants to communicate or submit a defence in writing, then there is a discretion on the part of the judge to determine whether or not the judge in any given case wants to put the crown, estate or the province to the full proof. We think this is important because otherwise, if you didn't allow that, or if you didn't create or establish that discretion, then everybody automatically would soon learn to say: "What have we got to lose by just writing in some concocted defence? We don't have to appear there. We'll force the police and the other witnesses to come and we'll be sitting in the sun in Florida. Who knows? Maybe we'll get lucky; maybe the police or the other people won't arrive."

Unless there is some discretion built into the system, chaos will ensue. With respect to any of these individual sections, if you'd like to direct further questions to Mr. Campbell, who is here with us now, or any suggestions you might have as to how we may clarify this, we'd certainly welcome your contribution in that respect.

Mrs. Campbell: I have this concern. If a person pleads not guilty with an explanation, it's not clear to me—maybe I'm just supremely dull—that there is sufficient direction as to what that type of explanation is to be. It would seem to me that if at that point it is decided to proceed with a trial, notwithstanding the fact that somebody has said, "I don't wish to appear," there should be a further notice to them that their explanation

is not accepted, or perhaps it is, but they are ordering a trial because of a conflict and there will be a hearing. I think it is going to take time for people to understand what is the essence of an explanation as it is spelled out in the bill.

Hon. Mr. McMurtry: I think I can perceive some difficulties that might arise and which might make it better to retain the present system. I think people surely should understand that if they want a trial the only way they can be assured of a full and formal proof is—

Mrs. Campbell: Is to ask for it.

Hon. Mr. McMurtry: —to request it. Even if they request it they are not forced to appear. Their failure to appear could increase the issue of costs.

Mr. Campbell, having spent many months working on this legislation may have, I'm sure, a better understanding of the practical problems that might arise than I do. Maybe I'm missing something here, but I see nothing unfair about asking an individual to make that decision at some point as to whether they want a formal trial, or they want a formal proof of the case. They are not under any obligation to appear, as I understand it. They are just saying, "I want to enjoy the rights I have traditionally enjoyed; that is, the crown has got to prove the case whether I'm there or not."

I don't think that's unfair because otherwise I think we get involved in an awful lot of very real administrative problems. Perhaps Mr. Campbell could—

Mrs. Campbell: I trust we're not in a conflict of interest. I have no idea of any relationship.

Hon. Mr. McMurtry: I don't want to embarrass Mr. Campbell, but you may have known his father, who was very prominent at one time with a party that I don't support.

Mrs. Campbell: I think I did. Mr. Campbell, you're already at a disadvantage on two fronts.

Mr. A. Campbell: When the defendant receives an offence notice and wishes to plead not guilty, the defendant has two choices. The defendant is put immediately to the fundamental choice; do they want to appear and go through a trial, or do they want to plead guilty or guilty with an explanation? If they do want to plead not guilty, they can either go on for the full trial or they can write in the explanation or submissions that feed into section 6(2). A justice of the peace at the court office would receive a whole bunch of explanations under subsection 2.



Mrs. Campbell: He sure will.

Mr. A. Campbell: Yes. He would look at them and he would address himself to the test as to whether any reasonable ground of defence is disclosed in the explanation or submission. If the person writing in is just angry that they were stopped, they think the speed limit should have been different in that area, they don't think the police are generally fair, or there's something that could not in law be capable of disclosing a reasonable ground of defence, the JP would simply convict and impose a set fine.

However, and this is a key to it, if there were something in the submissions or the explanation that could in law disclose a reasonable ground of defence, such as maybe wet leaves—

Mrs. Campbell: Such as the lack of any parking signs.

Mr. A. Campbell: Yes. Then the JP would be under an obligation to put it on for a trial. The officer and any necessary witnesses would be notified and it would proceed as a trial in the absence of the accused. Right now every year there are hundreds of thousands of those where the defendant just doesn't happen to appear. At the trial, in the absence of the accused, the sitting justice of the peace—this would be in court—would have that explanation in front of him and when the officer was testifying, the sitting justice of the peace, after the conclusion of the officer's testimony—

Mrs. Campbell: Cross-examine?

Mr. A. Campbell: Well, without descending into the arena, the justice of the peace would say, "Here is the submission and/or explanation that has come in from the defendant. What do you say about this?" That line between asking the officer what he says about it and descending into the arena is a pretty fine one. A good deal is going to have to be done in terms of various training programs for justices of the peace as to how they should conduct themselves in relation to the exercise of that discretion.

Mrs. Campbell: I am delighted to have opened that one.

Mr. A. Campbell: It's obviously a discretionary area and, under the supervision of the chief judge, we envisage a number of training programs for justices of the peace as to what their judicial duty is under various circumstances, not in the form of instructions as to how they should exercise their discretion in individual cases, but as to what the general discretionary principles are under section 6 and the other sections.

Mrs. Campbell: Just to close, the white paper suggests that the explanation would contain a theory, but not be adequate in situations where evidence is required. I take it that the explanation which you envisage is in effect a disclosure of your case, of your defence. So there is a variation now between the two statements. Is that correct?

Mr. A. Campbell: Perhaps you could direct me to the—

Mrs. Campbell: I haven't the thing before me so I can't give it to you.

Mr. A. Campbell: I think it may be at pages nine and 10.

Mrs. Campbell: It's early on, I can recall.

Mr. A. Campbell: Yes, I think it's page nine.

Mrs. Campbell: It isn't at the top of page 10.

Mr. A. Campbell: The penultimate line on page nine: "It will permit a defendant to plead not guilty and deliver to the court a written explanation or submission that will be considered by a justice who must direct that a trial be held unless no reasonable ground of defence is disclosed in the explanation."

Mrs. Campbell: Yes, but there is this statement further—well, I won't take up the time now. I did see it and I will draw it to your attention.

Mr. A. Campbell: I think, Mrs. Campbell, it may be in the next full paragraph where it says: "The questions addressed by the justice of the peace to the officer do not themselves constitute evidence"—because there is nothing under oath there—"but they do give the defendant an opportunity to have his case put to the officer and to require the officer to overcome under oath whatever it is that the defendant sets up against him."

That is a situation, again, where the justice of the peace would be putting it to the officer. I doubt there would be very many cases where it would be appropriate for him to enter into a very vigorous cross-examination, although in some cases he might have to get close to descending into the arena, depending on the nature of the defence raised.

I think that is consistent with what has been indicated today. It's sort of a two-step proceeding. First, you are under section 6(2), where the justice of the peace in his office exercises a discretion as to whether or not there should be a hearing, and then at the hearing in open court the justice of the peace puts the explanation to the officer and sees whether or not the officer can overcome

whatever it is that the defendant sets up against the officer.

**Mrs. Campbell:** I suppose what I'm really looking at is the second full paragraph, although the wording is not as I have it and I will have to check it. Of course, if evidence is required to support his theory, then he would normally have to appear."

It seems to me that what you are asking by way of an explanation is in effect his evidence. It is unsupported by witnesses, and we understand that.

[12:15]

**Hon. Mr. McMurtry:** I think I would agree with you. I think that is in effect what most people would give as their explanation.

**Mrs. Campbell:** Their evidence.

**Hon. Mr. McMurtry:** They would give their version.

**Mr. A. Campbell:** It would have to be made clear that the explanation was not evidence, but something that would be advanced in court to test. If there is a conflict between the evidence under oath of an officer and the unsworn allegation of the defendant, one point that arises is that it is very important to make it clear to people that their explanation is not evidence. If that had been contemplated, then there would be some indication it is not evidence, but it is an opportunity to have your point—

**Mrs. Campbell:** To state your case unsworn.

**Hon. Mr. McMurtry:** Which they don't have now.

**Mrs. Campbell:** That is true.

**Mr. A. Campbell:** Yes, to seek something that is used to test the crown's case.

**Mr. Lawlor:** I am not going to proceed on this matter. We will have plenty of opportunity to canvass it.

**Mr. MacBeth:** Just a very brief question; Mr. Campbell knows I am one who is happy to see this legislation produced.

**Mrs. Campbell:** I am not unhappy about it.

**Mr. MacBeth:** I say Mr. Campbell knows that I am glad to see it come along.

**Mrs. Campbell:** I am happy too. It is just that I have a few problems with it.

**Mr. MacBeth:** One thought I do have, and I haven't read the bill as perhaps I should have, is this business of pleading guilty in absentia. We are doing it all the time when we know what the penalty is. You go in and pay a traffic ticket.

What happens if I plead guilty in absentia, thinking that I am going to get a

penalty of maybe \$50, but I end up with two days in jail? I suppose that is a possibility under this. It just seems we are getting quite away from the British system of being tried in public and being entitled to be at your trial. It is the thought that you expect to get a penalty when you plead guilty, but they could come down with a much more severe penalty when you are not present.

**Mr. A. Campbell:** You would not be able to have a higher penalty than the set fine. For instance, under section 6(2) it says "convict the defendant and impose the set fine." The set fine is something that is pre-set by the court.

**Mr. MacBeth:** Like a traffic ticket.

**Mr. A. Campbell:** Yes. Under section 8(2) if the court accepts payment, that is a plea of guilty and leads to the imposition of the set fine. In addition, and it would be shown on it, some amendments are being considered to have a power to have an automatic sum in the nature of costs upon a conviction, but that is something that would be reflected in what the defendant had. There is no way he could receive a higher penalty than that which was set out in the thing.

What is more under section 12 if the crown or if the officer goes under this simplified procedure, no jail term is ever imposable. If a police officer or game warden thinks it is a very serious case, their instructions may be in a very serious kind of case not to go under the simplified procedure but use a regular process. Under the simplified procedure under section 12, no jail term is ever possible.

**Mr. MacBeth:** I guess that was the question I was asking.

**Mr. Chairman:** Are there further questions on this one topic then?

**Mrs. Campbell:** I think it was important to flesh some of this out before—

**Hon. Mr. McMurtry:** I think Mr. Lawlor would like to do that now too, even though we will have an opportunity later on.

**Mrs. Campbell:** Yes, I had thought he had indicated he didn't want to.

**Mr. Lawlor:** At the time of the estimates.

**Hon. Mr. McMurtry:** It might be of assistance to everyone. That's all I am suggesting.

**Mrs. Campbell:** I have some other questions I would like to put on other matters, if I may.

I would invite the Attorney General to do what he's done in other matters: make some

public statement as to what in his opinion constitutes either horseplay, highjinks or spirited activities in our young. I say this because I am becoming alarmed, and I would like to tell the Attorney General that women are becoming alarmed, at what seems to be a backward step so far as their protection is concerned in our society.

This grows out of a very recent matter. But I also am thinking of the disposition in the matter of the Duke of York school where the initial reaction was that here were a group of young people in full military dress and full equipment and when they drew their guns on these women who were coming out of a legitimate meeting in a legitimate school, it was just a matter of youthful high spirits.

I think this sort of statement is necessary in our time. I would like to say that the anxiety of women as expressed to me is one that I think has great validity. I look back to an occasion when my husband was asked to judge some films prepared by high school students across this province—the competition was held in Sudbury a couple of years ago. He had come to the conclusion that in his life there was nothing that could shock him any more, but he was almost ill when he viewed these films. In one form or another the films made by the high school students demonstrated—and I will give you just one case: the case of a boy and a girl who were driving in a car. The driver stopped. He complained of a flat tire, got the girl to get out and help him, got in the car, drove over her and then drove the car down the road, got out and went into the woods merrily singing and dancing. This was the kind of thing which was repeated right across this country. It wasn't confined to Ontario in these films.

I think sometimes we tend to look at things through the eyes of experts and try to explain these things away. But I have to say to the Attorney General that this same reference was made at a recent meeting of women. An actress had been viewing the film and said that she herself was very concerned about this new attitude. Whether it is a backlash to women seeking equal opportunity, whether it is more deeply societal than that, I am not in a position to say.

But it seems to me that now is the time—as in violence in hockey, where at least there's some element of consent in the entering into a game. There has been no element of consent in either the case produced before us in the Legislature or in the case of the Lord Dufferin school. I think we have to stop viewing these things as just the very real and understandable attitude of young men

in horseplay. Usually to me horseplay indicates where two people are participating and it sometimes gets out of hand. It doesn't appeal to me as a matter where one is a helpless person and somebody else takes advantage of that situation. I would invite the Attorney General to make a statement indicating the attitude of justice in this province in these very critical areas.

**Hon. Mr. McMurtry:** Should I respond briefly now? Mrs. Campbell, first of all, with respect to the Duke of York incident, certainly the allegations that were made were very serious allegations and ones that were taken very seriously by our local crown attorney's office. To characterize any young person using a rifle—real or mock, it doesn't matter to me—in that sort of manner, is not horseplay and as far as I'm concerned might well be grounds for laying a criminal charge.

In that particular case, there were different versions—I don't recall all the details—but I know that the women in this case were certainly invited by the police to try and identify some of these individuals, because it was felt by local law enforcement people that charges perhaps should be laid. The difficulty in that particular case was identifying the individuals.

**Mrs. Campbell:** The militia had no such difficulty, eh?

**Hon. Mr. McMurtry:** For their purposes they could identify a group of individuals, and discipline them or otherwise as a group, but obviously when you're laying a criminal charge you have to identify the specific individual. I agree that it was a very serious matter. I'd be more than happy to voice my opinion on these matters, and I know the member for St. George often gives me, properly so, the appropriate opportunity.

With respect to the incident that I hadn't heard about before, in relation to this high school film, to me I don't view this as a fact that it was a young woman that was run over; I don't view it from that standpoint. To me it wouldn't make any difference and I'm sure that you don't intend to convey any difference as to whether it was a young lad or —

**Mrs. Campbell:** It's just that that was the theme.

**Hon. Mr. McMurtry:** —regardless of young man or young woman, it doesn't really make much difference. It's the fact that there are many people in our society who seem to wallow in portrayals of mindless violence. It's of great concern to me and I've expressed this concern, particularly in relation to films. I know Mr. Sims of the Ontario Censor Board



has been under attack recently. I, in the company of Mr. Justice Hartt and some prominent people in the news media—Austin Cooper, a lawyer I know, I think was with us that night—viewed some of the clips that had been, in effect, deleted from films that were being brought to Ontario for showing.

Leaving the issue of sex and explicit sex aside, which I really regard as a pretty minor problem, I can tell you that I was absolutely horrified by the portrayals of just mindless violence and the extent to which film makers wallow in this portrayal of mindless violence. I'm not satisfied that this does not have an effect.

[12:30]

Obviously, our young people I think are being very hardened to this. We see incidents every day where people are becoming more and more immune to violence, to the extent where I just read in the paper about a young woman brutally attacked, I think this was in Ontario—it was a sexual attack—and most of the passers-by just wouldn't get involved.

There are many issues in which we are reluctant to get involved, but it is a fact that people are becoming immunized or desensitized to violence and this is making it extremely difficult to distinguish between this mindless violence we wallow in as entertainment and what actually happens on the street. I would invite you, with respect, to convey your concerns, which are my concerns as well, to our friend and colleague, the Secretary of State, in Ottawa—

**Mrs. Campbell:** I did indeed.

**Hon. Mr. McMurtry:** —who has taken the simplistic and rather stupid position that “everything should go”; that there are no holds barred; that in order to curry favour with his creative friends—and I have some interest in the world of creative arts and am not insensitive—

**Mrs. Campbell:** My husband has been in business—

**Hon. Mr. McMurtry:** —he feels that he should advocate the fact that nothing should be censored; that we should continue to wallow in this type of entertainment. As I say, people in Ottawa—and I don't say this in a partisan sense, because I'm afraid it would happen regardless of what political party was there—seem to be isolated from the real world a good part of the time. I think his response to the very difficult problems that are faced by the Ontario censor is a pretty good reaction to the fact they don't spend much time in the real world.

You touched a sensitive nerve, Margaret.

**Mrs. Campbell:** Believe me, if you will, I am just as anxious to pursue it there as here. It is not a partisan matter for me either. It transcends that.

**Mr. Ziembra:** Just a quick supplementary: There is a group called Women Against Violence Against Women. About a year ago this group demonstrated outside the Cinema 2000 against a film they strongly objected to. I think this weekend they are demonstrating against a punk rock group that was called “Battered Wives” and has now changed its name to simply “Wives”—

**Hon. Mr. McMurtry:** For this performance.

**Mr. Ziembra:** For this performance. One of their objections is that the logo of the group shows a fist slamming against a woman's face. I wonder if the Attorney General has any thoughts on this, or whether he has anything he can offer by way of dealing with this situation—or whether he even wants to deal with this situation.

**Hon. Mr. McMurtry:** I certainly have some thoughts on it. The extent to which an Attorney General can deal with it is obviously another matter.

To me, the development of the so-called punk rock I think is very much a symptom of a sickness in the community that again is, in my view, a direct consequence and result of mindless violence as entertainment. This to me is just another phenomenon that has developed. I think it reflects a very serious sickness in the community.

I am deeply disturbed as an individual regardless of my official responsibilities. My own view of the matter is that citizens groups are the best people to deal with many of these problems. The law cannot be ignored and it has an important function, but I just don't think we are going to make much progress unless there are concerned citizens groups which are prepared to stand up and protest. Whenever an Attorney General gets into the act, all the usual allegations are made that it is the heavy hand of the government, insensitive to individual freedom of expression; or it is a politician looking for attention, et cetera, et cetera.

I don't for one moment suggest that I am going to abdicate my role in this respect, but I certainly will continue, as I have in the past, to encourage individual citizens and citizens groups to stand up and be counted, because I think that's another illustration of what I regard as a pure and simple sickness, a very ugly form of sickness. I think if it is allowed to continue and develop the consequences for society as a whole are going to be very, very tragic.

**Mr. Ziemba:** I think the "violence against women" group will be very pleased to learn this.

**Mrs. Campbell:** Mr. Chairman—

**Mr. Chairman:** Are you going on to a different topic?

**Mrs. Campbell:** Yes, I am.

**Mr. Chairman:** It has been suggested that we break at 12:30 for an hour and then resume the estimates at 1:30. Does that meet

with the pleasure of the Attorney General and the committee? Assuming there is no motion that carries—no motion that is considered no-confidence—and if we're not all in the middle of an election at 1:30, we'll reconvene at 1:30.

**Mrs. Campbell:** Will the room be locked so we can leave our papers here?

**Mr. Chairman:** Yes.

The committee recessed at 12:36 p.m.

## CONTENTS

Friday, November 3, 1978

Law officer of the Crown program .....	J-353
Recess .....	J-361

## SPEAKERS IN THIS ISSUE

Campbell, M. (St. George L)

Lawlor, P. D. (Lakeshore NDP)

MacBeth, J. P. (Humber PC)

McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)

Philip, E.; Chairman (Etobicoke NDP)

**From the Ministry of the Attorney General:**

Campbell, A., Assistant Deputy Attorney General and Director of Policy Planning and Intergovernmental Affairs





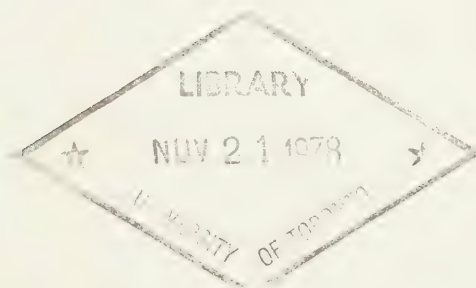


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Attorney General



### **Second Session, 31st Parliament**

Friday, November 3, 1978

Afternoon Sitting

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

FRIDAY, NOVEMBER 3, 1978

The committee resumed at 2:05 p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1301, law officer of the Crown program; item 1, Attorney General:

**Mr. Chairman:** We now have a quorum. Mrs. Campbell was next on the list.

**Mrs. Campbell:** I am going to try to shorten this, Mr. Chairman, but I wonder if the Attorney General is aware of the case of one Joseph John Slomka, a report of which case appeared in the Hamilton Spectator on August 3, 1978. It was a case before one Judge Robert Morrison, who refused initially to hear a perjury case against Slomka because he said he was prejudiced against him and his family. He is reported in the press to have said: "I don't want it. I don't want to touch any more Slomkas. I have had too many lately." The crown attorney, who I believe was Don McLean, said that Slomka planned to plead guilty, and Judge Morrison said he still didn't care.

Mr. McLean and defence lawyer Roger Yachetti visited other courtrooms but couldn't find a judge with enough time to hear the case. Eventually they returned to Judge Morrison, who agreed to accept the case. "He said he was only taking the case if counsel and I agreed on the sentence," Mr. McLean said later. Slomka pleaded guilty to perjury and to breach of probation, and I believe that the sentence was four months.

If the Attorney General is not familiar with the case, I wonder if he would undertake to investigate it from two points of view, the first being quite an obvious point of view. The other, which perhaps is even of greater purport in some ways, is the facilities in Hamilton and the fact that there was no other judge available who could hear this matter. It is disturbing to me and I would think it might be disturbing to the Attorney General.

**Hon. Mr. McMurtry:** The judge's comments are obviously somewhat unusual, and the court scheduling may have made it difficult for the matter to be heard by another judge if their agendas were already complete

for that particular day; but I will get a report on the matter. I hadn't heard of it before. What was the date of the press report?

**Mrs. Campbell:** August 3 was the date of the report in the Hamilton Spectator.

**Hon. Mr. McMurtry:** Did it refer to something that had occurred the day before, or is that clear?

**Mrs. Campbell:** It reads: "A 20-year-old Jerome Crescent man was convicted of perjury yesterday."

**Hon. Mr. McMurtry:** Jerome Crescent?

**Mrs. Campbell:** The name of the man was Joseph John Slomka.

**Hon. Mr. McMurtry:** Of Jerome Crescent?

**Mrs. Campbell:** Yes.

**Hon. Mr. McMurtry:** August 2?

**Mrs. Campbell:** And the crown was Don McLean. I am advised that the court facilities in Hamilton are somewhat unusual in that they are not in any one facility, for starters. I would ask the Attorney General if he would investigate the matter because it does seem to me that to agree to sentence in that fashion is carrying plea bargaining to an unusual conclusion.

**Hon. Mr. McMurtry:** Yes, I agree.

**Mrs. Campbell:** The last item is: can the Attorney General bring us up to date on the matter of the decision of Judge Kenneth Langdon and the breathalyzer matter since now both functions are in one ministry? What are the intentions if they're different from those reported in the press on—I'm sure I have the right date of this—it's an article by Isabella Bardoel "Breathalyzer Police Ruling Called Error in Law." I believe that is reputed to be a statement of Howard Morton, director of the crown law office.

**Hon. Mr. McMurtry:** First of all, it's our view that the decision is not a correct interpretation of the law. There are several other decisions by provincial court judges within the province that go—

**Mrs. Campbell:** Contrary, I'm aware of that.

**Hon. Mr. McMurtry:**—contrary to that decision. I believe it is the other decisions



that are being followed by the provincial judges if and when this matter is raised. I am not sure where that particular case stands so far as Judge Langdon is concerned, I don't know whether it has been disposed of or not. I don't know the reason—it certainly doesn't happen very often—but the crown was proceeding by indictment in relation to this charge of impaired driving. As a result, the hearing before Judge Langdon was a preliminary hearing. So the case, I am sure, has not been disposed of. I don't think there would be any appeal available to the crown so far as that case is concerned, at this time. As I've already stated, other cases of decisions have gone the other way and we're satisfied that—

**Mr. Leal:** One by Provincial Judge Scullion last week, sir.

**Mrs. Campbell:** Judge Langdon's grounds, as I understand it, were that the signing power lies with the Attorney General and not with the Solicitor General. Is that not the ground on which he—

**Hon. Mr. McMurtry:** That was basically the ground. I've just looked at the judgement briefly myself. But my understanding of the law is that under the Criminal Code of Canada, the Attorney General is defined to include a Solicitor General where there is a Solicitor General. The line of reasoning of Judge Langdon is a very interesting one but in my respectful view not a correct interpretation of the law. To our knowledge it has not been followed in any other court. But I expect that this may be clarified once and for all by a higher court where there is an appeal available.

[2:15]

**Mrs. Campbell:** Mr. Chairman, I will have a question for the Deputy Attorney General, but I will yield at this point rather than hold up my friend.

**Mr. Chairman:** Mr. Lawlor, do you have questions on the first vote, or would you rather move on?

**Mr. Lawlor:** Just a couple of small things on the first vote. During the course of the estimates I don't think it is particularly of value to rehearse what we have said in past years as to the law's delay.

I would refer the Attorney General—perhaps it would be helpful in his deliberations in trying to streamline the process—to the Commonwealth Law Bulletin of July 1978, the complimentary copy, at page 610 thereof. The jurisdiction is India—they have a law commission working on it—it's a worldwide problem. Some of the comments made there

I found interesting, and you may do so too.

I will not rehearse them or go over them inch by inch as we tended to do in past years. You have long lists—at least I have—of possible areas of remission, commission and omission that exist—everything from conspiracy charges to bargain basement police stations. I just don't think there is much to be gained. You know the problems.

The only question I have has to do with Walter Williston and the possibility that a simplification of rules in the operations of the courts can make a contribution. I suspect Williston's findings—with respect to pre-trial discovery, and a whole series of rule alterations, et cetera—would be of enormous assistance. You have been on this for a couple of years. How is that coming? Can you bring us up to date on that?

**Hon. Mr. McMurtry:** Yes; the preliminary report for discussion purposes was available by the late spring, and was the subject matter, for example, of a two-day meeting of the Advocates' Society of Ontario, in which many of these preliminary proposals were discussed.

Subsequent to that meeting Mr. Williston has travelled in many areas of the province, meeting with local bar associations to discuss some of the preliminary proposals. This process will be ongoing during the fall. I think the last date I heard was a date relatively early in the new year for the final report.

**Mr. Lawlor:** That is not submitted to you; that is submitted to the law society?

**Hon. Mr. McMurtry:** No, it is submitted to me because I commissioned Mr. Williston to undertake this study at the end of 1975. It was envisaged at that time it would be at least a three-year project, and it would appear that Mr. Williston will be on schedule. But it is a report to the Attorney General.

**Mr. Lawlor:** The last matter I wish to discuss under this vote is: This morning's mail brought a benison—the newest volume of the Gazette. I notice that there is an article in there—I haven't had a chance to read it yet—by Roy McMurtry. It is on the area of the public defender, and a reply to the article I mentioned several days ago which was quite corrosive with respect to your operations.

**Mrs. Campbell:** Excellent choice of words.

**Mr. Lawlor:** Could you just give us a brief indication? It will save time later on anyway.

**Hon. Mr. McMurtry:** I commend it, of course, I commend the article for your care-

ful reading, and I would hate to say anything that might discourage you from reading the article in its entirety.

**Mr. Lawlor:** Oh, I intend to read it: just haven't got time.

**Hon. Mr. McMurtry:** I haven't seen the latest copy of the Gazette and I don't know whether my response was printed in full. I'm sure it was. Basically, I was taking issue with some of the propositions that were being put forward by my good friend Niels Ortved in his rather provocative contribution that appeared in the previous edition. I thought Mr. Ortved was confusing some of the basic issues.

First of all, I had made it clear at all times in considering the possibility of a public defender office as an adjunct, as an addition, to the present plan that it had been my view throughout that the private bar should continue to play the basic role with respect to the delivery of legal services in defence cases. The issue was one of whether or not there should be an addition to that in a community such as Metropolitan Toronto, where there are a very large number of lawyers and where it is difficult for members of the public who are not acquainted with lawyers generally to know who would be available with expertise in the area of criminal work.

In order to create better access to legal services and in order to assist people to find counsel who have some basic training in the criminal law and in trying criminal cases, I thought we should consider at least the establishment of a public defender office, not to replace the present system but as an addition to it. The basic principle of freedom of choice would still be maintained.

I deal with that in my response to Mr. Ortved's article. I also deal in general with the possible advantages that might be part of a public defender office, quite apart from the training in the criminal law and the fact that people would be devoting their full time to criminal law. I mentioned other aspects in relation to investigatory techniques and perhaps even resources associated with such an office that were of a non-legal nature and which would be appropriate from the standpoint of social services. Often people caught up in the criminal process and their families require this type of assistance for which lawyers are not well qualified. This might be part of any public defender system.

I also talked to the efficient use of paralegal individuals for work, for necessary preparation which did not have to be done by a trained lawyer. I reviewed possible

advantages that might accrue to the public by the establishment of such an office, as well as dealing with some of the mythology that Mr. Ortved attempted to perpetuate in his original article.

**Mr. Lawlor:** Was one of the advantages the saving of money?

**Hon. Mr. McMurtry:** I had indicated not not so much the saving of money. I prefer to talk about it in terms of obtaining greater value from the expenditure that is presently being made. I don't, for example, see us reducing the cost of the legal aid plans. What I do see and what I do envisage is a higher quality for the same expenditure that is being made now.

**Mr. Chairman:** Any further questions or comments on the first vote?

**Mrs. Campbell:** They aren't moving a deletion, are they?

**Mr. Chairman:** I trust that no one's going to move any deletion of \$18,000. It's a pleasure to chair a moderate—

**Mr. Lawlor:** He has a growing family; you can't do that.

**Mr. Chairman:** —and responsible committee.

Item 1 agreed to.

On item 2, Deputy Attorney General:

**Mrs. Campbell:** Mr. Chairman, could the Deputy Attorney General advise us as to the status of the matter of the verbatim reporters? How are discussions proceeding?

**Mr. Leal:** Mr. Chairman, I have been meeting with my staff, the director of court administration and the inspector of legal officers, the latter being directly responsible for special examiners, along with Mr. Schurman, who is the project director in charge. We have been meeting with the special examiners and their counsel plus two other shorthand reporters who are non-members of the Professional Verbatim Reporters' Association and therefore representing a group that was not otherwise represented.

We have made it very clear to the special examiners that we are anxious to have the reporters back at work. Indeed, in a meeting that I had with them—I believe it was a week ago today; it may have been a week ago yesterday—I told them that we would like to see that done within a week.

There are some problems about that because, as you may be aware, when the shorthand or steno reporters either walked out or were locked out—whatever the interpretation is—some of the special examiners' officers installed electronic recording and monitoring systems which obviated

to some extent the necessity for reporters; they were running it on a sort of mix of reporters and electronic recording. But they tell us they have committed themselves to some long-term leases of this equipment and therefore would find it to their economic disadvantage to bring these people back.

I have asked them to review their position and to let us know in a week. I will be talking to counsel for one of the special examiners at the beginning of the week. Indeed, he wanted to talk to me today but I obviously wasn't free to see him today. That's the main thing I want to say.

The other thing is that the minister, of course, has established a special study under Mendel Green of Toronto, a practising lawyer. I don't have the terms of reference before me, but they are broad enough to cover all aspects of the problem, including the technology, the adequacy of the tariff and the division of the spoils, if I might put it that way.

**Mrs. Campbell:** A little crudely perhaps. [2:30]

**Mr. Leal:** Which, of course, is the allegation that is made, that the special examiners are not giving recognition to legitimate aspirations of the reporters in the money that flows from the tariff, including fees which are charged on cancellation of an appointment. Indeed, I think Mr. Green has, in a letter to him from the Attorney General, very broad powers to look into all aspects of the matter. The request is, as I recall it, that he report to you by the end of December 1978.

**Hon. Mr. McMurtry:** Yes.

**Mr. Leal:** I think that's where we stand at the moment. From the standpoint of the Attorney General and his major concern of seeing that this service is provided to the court system, I have not heard any criticism of the inadequacy of the present flow of services. I think the services are being provided. There is no evidence, at least as far as I am aware, that that is not so.

The other problem, which in a sense is a third party problem because we don't deal directly with the reporters, they are contractual employees or independent contractors with the special examiner. But all the details of that are being studied by Mr. Green and hopefully will be covered in his report along with recommendations, if any, as to what ought to be done to correct any imbalance there is.

**Mr. Lawlor:** Are they inspected by the inspector of legal offices?

**Mr. Leal:** Yes, there is a provision—I believe it is section 90 of the Judicature Act—which in general terms provides that all officers of the court who are collecting fees or to whom fees are payable, may be required to submit by I believe January 10 of each year, a statement of their fees collected and fees payable for the fiscal year immediately preceding. The inspector of legal offices may require such further information as he deems necessary in order to provide for an adequate supervision of the operation of the office. We have received the financials from all of the special examiners. Those have been made available to Mr. Green and will be studied by him in determining the matters which have been referred to him.

**Mr. Lawlor:** To put the matter bluntly to you, you might abide by Mr. Green's survey, but you might in due course, maybe before too long, be obliged to assume responsibility directly for those offices. In other words, with your echelons and panoplies of court reporters in other areas, et cetera, representing many hundreds, this area has remained in the private realm. It is a bit anomalous within the justice system that this would be in the hands of very few firms operating, some of whom are doing very well monetarily. It might be just an extra source of revenue.

Apart from that, there is at least one firm—I don't think it is invidious to mention names—which operation generally speaking is less than precise and right on with respect to the profession itself and to the services that it does accord and to the personnel who run it. I am sure you are perfectly aware of the situation in question. It may be an extra impetus on your part to give consideration to my initial proposition in this particular regard.

I am delighted to hear you made a personal intervention in trying to resolve the issue, which I do consider effectively a lock-out. At least the negotiations, as I understand them, were conducted on very arbitrary terms. Scales of fees for various services performed which had been previously well recognized were cut back by percentage points, substantial percentage points, in order, of course, to increase the profit making. Being a reporter is not an easy job. It is an extremely demanding and precise type of work. The kind of concentration involved is not that of an ordinary stenographer by any means. It is far more demanding. I think I will leave the matter there.

**Mr. Leal:** I would only add one thing, Mr. Lawlor, if I may. I neglected to mention it



before. We, in fact, did meet with all the reporters and the special examiners at a joint meeting about three weeks ago. One thing I took home from that meeting, and I was a little surprised, putting the point that you have put, that this taking over into a civil list operation was one of the options and it wasn't put forward as being an offer by the government or a threat by the government because that policy had not been settled, but it was mentioned as being an option and I was rather surprised to find how many of the reporters were very much opposed to that. They put it on grounds which I guess you and I could understand: here was an opportunity to make a little more money on a bonus system than perhaps they could garner by working as civil servants.

**Mrs. Campbell:** Have you not had some problems with your own court reporters? There certainly was a good deal of criticism on their behalf as to what they were expected to do in what I would call down time, on their own, the writing up of cases and so on, which was left to be done at their leisure, shall we say. I think there were some very real problems there. Have they been resolved? If they haven't, I could understand some of their feelings.

**Mr. Leal:** I think the basic residual problem with regard to reporters is the problem that creates insecurity arising out of advancing technology and the verbatim shorthand reporters feeling a certain sense of disquietude because of the technological unemployment which may be down the road for them when the court moves over to a system of electronic recording, if that decision is ever made. That is a genuine concern for them.

It has been expressed to us on a number of occasions. "What is in our future?" That problem is a constant. It has been there ever since I had anything to do with it. There isn't much you can do to assure them that there is no problem, that it will go away, except one I guess can, to the extent that one is able, say: "You will be treated fairly."

**Mrs. Campbell:** That is hardly a solution for people.

**Mr. Leal:** What could one tell them?

**Mrs. Campbell:** I would suppose there is a point at which one doesn't encourage new people to come into the field.

**Mr. Leal:** Yes, but that is no solution for it because it is difficult to get new people to come into the field. As you know, Mrs. Campbell, we have had to go to electronic recording in other areas. But we are having, in the special examiners field, a total look to see what legislation, for example, might be neces-

sary, either in the enabling legislation and the rules to enable, if it is thought to be necessary and desirable, some other form of transcription to put this evidence before the court rather than the one that we have to rely on now.

**Mrs. Campbell:** Have you discontinued the practice of clocking judges to see how long they take in the disposition of cases? If you haven't, I would assume that a piece of electronic equipment could hardly achieve that purpose and that was a function of the court reporter. Has that been discontinued?

**Mr. Leal:** No, not to my knowledge. I think we've gone a step further than that. We're moving to a more accurate and meaningful record keeping of courtroom time in terms of—

**Mrs. Campbell:** Are you still clocking judges?

**Mr. Leal:** No, I didn't say that.

**Mrs. Campbell:** Oh. That's what I'm asking.

**Hon. Mr. McMurtry:** No, no. We are still clocking judges, in that respect.

**Mrs. Campbell:** But you did, of course; not you, but your predecessor.

**Mr. Lawlor:** Since these are the estimates it's nice once in a while during the course of them to refer to figures. I do so on this particular vote.

**Mr. Chairman:** The figure you're dealing with now is \$187,000.

**Mr. Lawlor:** First of all, before I do, in the explanation in the blue book at the side as to why changes in figures, you constantly, all the way through the estimates here, talk about something called "staffing reduction" in 1977-78. When you look through you don't see any staffing reduction at all in most instances. Why do you put that in?

**Mr. Leal:** That figure in all the charts beginning with the minister's item, 1301, item 1: 3.4. In the deputy's 1301, item 2: 13.5—top line, chart number two. Leading item 3, policy development: 8.6 staffing reduction. Those are dollar amounts which, taken collectively throughout all these charts, add up to \$1,850,000 which was the amount our ministry was required to reduce its salary budget by the Management Board to make the cut that was imposed upon us. That's what it amounts to.

**Mr. Lawlor:** Oh, throughout the whole ministry.

**Mr. Leal:** That is right.

**Mr. Lawlor:** And it's reflected in here.

**Mr. Leal:** In each one, so that if you look at mine at 13.5, that's \$13,500, which is my

prorated reduction to achieve the cut of \$1,850,000 in the full ministry for this year.

**Mr. Lawlor:** I understand. It was confusing, because when you look down below at the staffing information you notice the staff remains the same, and in some instances actually increases.

**Mr. Leal:** That's right.

**Mr. Lawlor:** I have one other question to ask on money. This is a very strange vote, you know, that you preside over. In 1976-77, the amount you actually spent was \$304,000. Then in the estimates for 1977, the following year, that dropped from \$300,000 to \$187,000, but in actual fact it rose to \$553,000. Now it's back down to \$187,000. Explain that for me.

**Mrs. Campbell:** If he can.

**Mr. Leal:** It's a strange budget over which I preside. The explanation is offered—

**Mr. Lawlor:** Cut by a third, all the time. [2:45]

**Mr. Leal:** The explanation is offered by the fact that included in that actual expenditure was a very substantial item, \$386,000, which was allocated to the professional organizations committee, which is a committee established by the Attorney General to look into the four professions: Law, accounting, engineering and architecture. I am chairman of that professional organizations committee and that money was originally included in the item under the Deputy Attorney General's budget but has now been taken out of there and put in another place in the ministry's budget, for good and sufficient reasons, because it really wasn't part of my expenditure as Deputy Attorney General at all.

**Mr. Lawlor:** You bloody well resent being loaded with this.

**Mr. Leal:** Exactly. I didn't reap any advantage and therefore I didn't want to carry the burden.

**Mrs. Campbell:** And you made your point, obviously.

**Mr. Lawlor:** I understand.

Item 2 agreed to.

On item 3, policy development.

**Mrs. Campbell:** I have a comment. It seemed to me that in policy development—and correct me if I am wrong, because it has been some time since I looked at it—your estimates in this area are, shall we say, somewhat larger than those of the policy secretariat in this area. Is that so?

**Mr. Leal:** Yes.

**Mrs. Campbell:** That is where I come back to this whole matter. I don't know how I arrive at an explanation of this, not having the two before me.

**Hon. Mr. McMurtry:** Very briefly, there is policy development on the one hand in relation to our ministry and policy co-ordination on the other hand. As I understand the role of the Justice secretariat, it is essentially a policy co-ordinating body rather than a policy initiating body. I think that, of course, represents the fundamental difference.

**Mrs. Campbell:** How frequently did you say you met with the secretariat?

**Hon. Mr. McMurtry:** Meetings are generally supposed to be held once a week, every Thursday morning to be precise.

**Mrs. Campbell:** And these have been ongoing?

**Hon. Mr. McMurtry:** Yes.

**Mr. Lawlor:** When I look back a few years, to 1974-75, to see what they were doing, whether they were doing the same thing then as they are doing today, by and large I find that they are. I want to put in brackets, that's a bit of hyperbole, but there's some truth to it.

They were doing statistical information extensively in those days. Management information systems, criminal and civil information systems, et cetera were all being devised and set up and it was said that they would be in place within the next year or two. Maybe a few years later it's better once in a while to come back on it and ask how are those systems that were set up within policy in those years?

**Hon. Mr. McMurtry:** I have mixed views. I think some systems were more effective than others and more meaningful than others. I think eventually, if we ever have the money that we should have, we will require a highly computerized system in order to determine really what happens to cases that get into the courts. Short of what I regard to be as essential, and that is a full computer system, it's very difficult to cope. There are others who can explain the sort of systems process better than I can.

**Mr. Leal:** I think, Mr. Chairman, that this probably would be better dealt with under vote 1302, item 6, which deals with systems development.

**Mr. Lawlor:** In other words, those votes are interrelated?

**Mr. Leal:** Yes, sir.

**Mr. Lawlor:** Okay.

**Hon. Mr. McMurtry:** We could also mention, if what I said was rather incomplete, at that time, of course, the central west project was in full bloom and this would be why there would be these additional resources required.

**Mr. Lawlor:** Yes, there's sort of been a pullback. I mean, of course, that's been done.

**Hon. Mr. McMurtry:** Yes.

**Mr. Lawlor:** Under the vote you talk about a special project. What special project was in this ministry that you are speaking about?

**Mr. Leal:** Could I have a page, Mr. Lawlor, please?

**Mr. Lawlor:** I guess it's page eight.

**Mr. Leal:** Yes, thank you.

This was actually a special project under our policy development branch dealing with the electronic funds transfer system, the new learning with regard to getting rid of all cheques and that sort of thing in the banking system and doing it on the computer. This is a project which was begun on a multi-ministry level for the Ontario government and it's under the supervision of Mr. Cavarzan, who is the director of the policy development division, and the research director of that project is Professor McLaren from the University of Western Ontario. They have submitted their final report in that form at this stage and I suppose the money this year is probably for printing.

**Mr. Lawlor:** Is this in other ministries too, or are you a pilot project?

**Mr. Leal:** Yes, sir, it affects a lot of other ministries of the government, such as MTC, CCR, Treasury. The government is one of the largest users of the banking system.

**Mr. Lawlor:** Last year you spoke of a policy project in this area on community service orders, the study in that area. What-ever came out of that?

**Hon. Mr. McMurtry:** Community services orders, of course, the pilot projects were commenced a year ago or so. There are seven or eight centres that were selected for these so-called pilot projects. These are being carefully monitored by the Ministry of Correctional Services. You may recall the announcements in relation to these areas were generally a joint announcement from the two ministries.

Of course, community service orders are being made in many areas outside these pilot project areas, but we wanted to develop these projects in such a way so that they can be

carefully monitored, particularly as we believe that in the long-term interest of the community there should be specific terms or provisions in the Criminal Code of Canada dealing with these community service orders. Right now they're all done under the probation sections of the code.

We haven't advocated specific amendments to the Criminal Code yet because we don't feel we've had enough experience to determine what the nature of the amendments should be, other than that we believe that it would be in everyone's interest to have a more comprehensive statutory basis for these community service orders. We have been very much involved in the development of this concept because of our obvious responsibility in these areas as well as the responsibility of Correctional Services.

**Mr. Lawlor:** Yes, that was the project of the Law Reform Commission of Canada. Do you place that under the general heading of diversion?

**Hon. Mr. McMurtry:** I don't think you could say that. I usually think of diversion in relation to keeping it out of the court system. This is a form of diversion in relation to keeping people out of correctional institutions, or alternatives to imprisonment.

**Mr. Leal:** It is normally under front-end or rear-end diversion.

**Mr. Lawlor:** At page nine you say: "Continue review of approximately 130 statutes administered by this ministry initiating proposals for reform." What proposals for reform have been proposed in the past year?

**Hon. Mr. McMurtry:** Our people have been very involved with the whole rent review program. Although that legislation has been carried through the House by the Minister of Consumer and Commercial Relations, our people have been very much involved as, of course, it involves residential tenancies that are presently covered by the Landlord and Tenant Act. I think that is one major project that immediately comes to mind. We have already talked about the Provincial Offences Act and perhaps the Religious Institutions Amendment Act which we hope to introduce shortly, and the children's law reform—

**Mr. Lawlor:** I'm sorry, is that mortmain?

**Hon. Mr. McMurtry:** Yes. The children's law reform package we have already spoken about, which will be introduced and hopefully passed this sitting, the Powers of Attorney Act, these are some of the major policy development areas.

**Mr. Lawlor:** Not the dear old Powers of Attorney Act? I don't think you were At-



torney General at the time, were you, when it had to be withdrawn? The sentence continues "and analysing suggestions for reform from the general public." Without taking a great deal of time, I am just kind of interested in what kind of feed-in do you get generally from the general public?

**Hon. Mr. McMurtry:** There are letters that are written to me, of course, every day, in great quantities from the members of the public, some of which contain very useful suggestions. I find very useful suggestions are contained in many of the questions that are asked in the Legislature and I often will request my policy development people to look at matters that are raised by members on all sides of the Legislature as well as members of the public.

Generally, in my view, the whole administration of justice area is a fascinating area from the standpoint of the potential for policy development and as a result it is and should be a very active branch of the ministry. I think one only needs to look at the legislative program of the government in the past several years to know just how active that branch of the ministry has been.

**Mr. Lawlor:** It's just that my feeling is that among those who are specially equipped and privileged to feed in new ideas or what they've picked up from reading in other jurisdictions, mainly the legal profession itself, don't feed into the opposition very much. There's been a long drought in my mind as to when anyone has mentioned anything that is particularly commendable, and I daresay you get a good deal more than that, than what we would.

You would be the natural one to address immediately, and therefore is it possible for you to give us a specific instance, or instances, or something that the members of the general public have brought to your attention that you've seriously considered bringing into legislation, that would be a worthwhile change here or there? Does anything come to mind?

[3:00]

**Hon. Mr. McMurtry:** The Blind Persons' Rights Act, certainly that was an initiative that came from the public and which produced legislation. We have a proposal that will be coming forward in relation to the Vicious Dogs Amendment Act and that certainly is a result of concerns expressed. In my own personal view, and it's still a personal view, in view of the tragic incidents that have been widely reported, I personally believe that there should be some vicarious liability on the part of dog owners

when, for example, children are injured by dogs. This is a controversial subject because many dog lovers, and I think I can probably include myself in that general category, state that these animals are often provoked by young children into these attacks and, therefore, it's unfair to the owner.

I have to tell you that my view at this time is that the responsibility on the owner should be such that if the dog is going to be running loose and is going to be in a position where he can be provoked by young children you have the responsibility, in effect, to insure yourself and therefore protect the injured parties from this occurrence. A recent example that comes to mind is a policy proposal that has seen the light of day but I hope we will be able to produce some legislation.

**Mr. Lawlor:** As a first-class tort lawyer, do you concede the first bite?

**Hon. Mr. McMurtry:** What I am saying is that I don't.

**Mr. Lawlor:** You are really saying that, are you? Just one small further question, if you will. You talk about studying an examination of judicial immunity. What is it that you are after?

**Hon. Mr. McMurtry:** I am not just sure.

**Mr. Lawlor:** It says here: "In addition, various discussion papers and policy proposals are to be examined in such areas as judicial immunity, et cetera."

**Hon. Mr. McMurtry:** I can think of a few suggestions that have been made to me by the judiciary as to what they would desire.

**Mr. Leal:** I think—I am sorry, sir.

**Hon. Mr. McMurtry:** Please go ahead.

**Mr. Lawlor:** He hasn't been thinking of judicial immunity recently.

**Mr. Leal:** Some of the judges at the county and district court level are feeling quite concerned about what they perceive as being inadequate protection being accorded them in the discharge of their judicial duties because of the spectre of liability to suit by some member of the public for having acted in a way by which someone suffers damages and then the judge is sued personally. It arises, of course, out of the fact that they don't enjoy, or don't appear to enjoy in their eyes, the same protection which is accorded to Supreme Court judges. This matter has not been tested in my view. I know of a couple of cases which I think were begun but they were abandoned, but they do raise with us and they have raised with the Law Reform Commission—

**Mr. Lawlor:** Not settled, abandoned?

**Mr. Leal:** Yes, they were not settled, and if my recollection serves me properly, they didn't determine the matter. They are looking for statutory protection from public liability in the discharge of their judicial duties which statutes give to other public officers. I think there's a point there, I really do.

**Mr. Lawlor:** So you figure you are going to have to move forward with some legislation?

**Mr. Leal:** We may have to do something, yes.

**Mr. Stong:** By way of supplementary, just on that point, what kind of cases are you envisaging here? I know that a judge out in Whitby or some place waited for two years before handing down a decision, so that nothing could be done with it. I could see where a suit could rise out of a situation like that where a judge refuses or neglects to act within the time frame, but what other kinds of things could open a judge up to prosecution by virtue of a decision?

**Mr. Leal:** I don't know whether this would be a sustainable case or not, but hypothetically, suppose, for example, that you had a case before a judge involving a contract and he took an inordinate length of time to bring down his reasons for judgement. Say that the value of the thing which was subject to the contract fell drastically, and then they said: "A good judge would have decided that in six months, and it took you six years. We want the money."

That's what they are afraid of; do they have liability in a case like that? That's what they are asking me, and I can hardly wait to hear what I am going to tell them.

**Mr. Stong:** I think that's a very valid area.

**Mrs. Campbell:** Should they be condoning such delays?

**Mr. Leal:** No. That I will not tell them. That's what it is anyway, Mr. Lawlor.

**Mr. Ziembra:** I see that one of the policy proposals discussed under this vote is the French-language statute translation. I was under the impression that there was an ongoing translation into the French language of the more commonly used statutes in family law as well as in the more commonly used criminal law statutes. Is this not the case?

**Hon. Mr. McMurtry:** Criminal law statutes, being from the federal government,

are passed in both the French and English forms. That has been the case for a long time. We are translating statutes. The process has commenced. We are still in the process of building up our resources in that respect. We haven't got the complete team together, but we have started the process.

**Mr. Ziembra:** What is the formula for that? There is so much federal money—is it 50-50?

**Hon. Mr. McMurtry:** No, very little federal money. I don't think there is any federal money any more. I think at one time they talked about \$100,000 a year; but that is cut off as of the end of this year. It was never more than \$100,000 a year, which doesn't represent very much. We approached the federal government for resources in this area in view of all the advice they were offering that we be given an opportunity, and their answer was to cut off the little they were giving us.

**Mr. Ziembra:** I recall a debate in the Franco-Ontarians' rights bill, I think the figure mentioned was something like \$2 million over a five-year period.

**Mr. Leal:** That is our own program.

**Mr. Ziembra:** Is that in this vote?

**Mr. Leal:** Yes, but it doesn't appear in those tables, Mr. Ziembra, because this program of the translation of statutes was begun in mid-year, after that was shown. We are actually committing a quarter of a million dollars in this fiscal year to begin and to work on translation of about 25 per cent of the whole volume of Ontario statutes and associated regulations.

**Mr. Ziembra:** There was one other question about community service orders. We've heard so much about them as the alternative to imprisonment and how they would deal with the overcrowding in our prisons, yet we know that all of Ontario's jails are overcrowded now. Can I assume that the six pilot projects were satisfactory? Is it the bill that we're waiting on, the Provincial Offences Act?

**Hon. Mr. McMurtry:** No.

**Mr. Ziembra:** What are we waiting for?

**Hon. Mr. McMurtry:** No, we're not waiting, we're moving ahead.

**Mrs. Campbell:** We're holding our breath.

**Mr. Ziembra:** The only case—maybe it's the one that made the news—was the recent sentence of the Rolling Stone to perform in front of the Canadian National Institute for the Blind, much to their dismay.

**Hon. Mr. McMurtry:** I think the last figure I heard was that there were some 600

community service orders presently being carried out and this is increasing every month. There's nothing to prevent any judge in any part of the province from imposing a community service order. Our only concern is related to this, so far as sort of the total expansion of the program, we want to make sure there are the backup resources. It's one thing for a judge to make an order, but what is essential is that there is a proper supervision in relation to carrying out that order and, of course, that it's an order that can be carried out.

For example, if a judge makes an order that people involved in a criminal driving offence should be ordered to go and work in various hospital emergency wards every weekend, which is not a bad idea, but unless you're going to get the co-operation of the hospitals it could create enormous problems. That's just an illustration of what I think is essentially a good idea, but one that has to be very carefully structured or you have a lot of chaos which could only undermine the whole program. That's why we're moving, I think aggressively but with some degree of caution at the same time.

**Mr. Ziemba:** But if there are 640 people serving community service orders, that means there are 640 fewer people in jail. Is that what you're telling me?

**Hon. Mr. McMurtry:** You can't necessarily relate the two orders directly, because people are performing community service orders who wouldn't necessarily go to jail. That's not necessary, although fundamentally we're regarding it as an alternative, but there may be people carrying out community service orders who would have been on probation in any event. So there's those two features to it.

**Mr. Leal:** Some of them would have been in jail.

**Hon. Mr. Murtry:** Oh yes, a good many of them would have been in jail, but all I'm saying is not necessarily so. That's all. So you can't relate it quite as exactly as that, but fundamentally it's an alternative. You're quite right. Sure we need a lot more jail space. I'd like to see more court space.

**Mrs. Campbell:** Better-paid jurors?

**Hon. Mr. McMurtry:** Absolutely. We're not suggesting that we're at all content with the capital plant, whether it's in Correctional Services or the Ministry of the Attorney General.

**Mr. Stong:** Just before Mr. Ziemba leaves this, talking about specific community service orders, I thought that the Right Honour-

able John Diefenbaker made a good suggestion with respect to the Rolling Stones concert: He thought it should be played for the deaf.

**Mr. Chairman:** Mr. Stong, I'll give you an opportunity to have that stricken from the record, because I don't know whether you realize that the association for the deaf asked Mr. Diefenbaker to apologize for that.

**Mr. Stong:** Oh, did they?

**Mr. Chairman:** And so you might want to—

**Mr. Stong:** I will. Yes, right, okay.

**Mr. Chairman:** You might want to pretend that you did not say that, unless you feel like making a public apology. They have no way of suggesting that to you.

**Mr. Stong:** I think it was more reflective on the quality of music as opposed to the charitable organization that was involved, quite frankly. However, I do agree, I do agree with you, I ask that it be stricken. [3:15]

**Mrs. Campbell:** I want to relate to the Ombudsman's report on correctional institutions and the fact that there were recommendations that seemed to flow over into the Ministry of the Attorney General, although I don't think they were regarded as specific within the framework of the Ombudsman Act to which the Attorney General would be required to make a reply.

What do you do in a case like that? Do you take that kind of a report? Do you look at those matters which reference your ministry and do you perhaps give consideration to them in relationship to any of your policy development, or just what happens? It is such a massive report and it seems to have died.

**Hon. Mr. McMurtry:** When that report came out, I requested my policy development people immediately to analyse any of the recommendations that could impinge either directly or indirectly on the Ministry of the Attorney General and there was a formal response, at least on the intergovernment level, and then the Correctional Services minister's formal response would have included our input.

We may not have touched on everything, for a very good reason. There were some matters that were recommended that I had serious concerns about. On the other hand, we wanted to respond in such a way that we wouldn't appear to be unduly provocative or create a feeling of confrontation where none existed.



There is a great problem with respect to prisoners who are being held on remands and one of the recommendations, as I recall, was that maybe we would hold these remands and in the correctional institutions have some space set aside as a remand court. I responded publicly to that. I don't know to what extent we may have actually responded formally in the report, but certainly I responded publicly and my concerns in that respect, of course, were the role of a court vis-à-vis a correctional institution.

Even though it was just for remand, there were a lot of factors to be taken into consideration, the accessibility of the public, the family, the fact that it might in many people's minds be a routine administrative act, in our minds was a very important part of the whole criminal procedure and we were less than enthusiastic about anything that would detract from the judicial aspect of the whole matter. That is just one illustration.

I think there was some suggestion with respect to various committees being set up involving crown attorneys and judges in relation to correctional institutions. We had some concerns as to whether that was appropriate. Certainly these reports are reviewed very carefully by any of the ministries that are involved, because we assume that at any given time we are going to be asked to respond. We certainly think we should be. If a suggestion appears to make sense, then one can assume that it shouldn't simply be buried. These reports are really analysed very carefully.

**Mrs. Campbell:** I really wasn't asking for a specific response, but rather how such a report—which in some ways does not fall, as I read it, within the Ombudsman Act, but nevertheless has perhaps some valid points to make—would be viewed by the ministry.

**Hon. Mr. McMurtry:** When the Ombudsman's office makes a report, we don't read the report with a view to whether or not it is within his jurisdiction or not. We are really not overly concerned about that.

**Mr. Stong:** I'm just wondering if I could get the Attorney General's response or reaction to the amendments that had been previously introduced in the House with respect to amending the Police Act and setting up a citizens' complaint bureau; and what his reaction would be to the objection that would mean the creation of a greater bureaucracy, and perhaps using what we have already in terms of the

Ombudsman's office, or if you intend to proceed with that or are canvassing other methods of satisfying public concern in this area?

**Hon. Mr. McMurtry:** This is more properly a question of the Solicitor General, but I will answer as the Solicitor General.

**Mr. Chairman:** I'll pretend that it's on this vote also, if you want to do that.

**Mr. Stong:** Actually it is policy development. I wondered what the policy was, that's all.

**Hon. Mr. McMurtry:** No, it's not within our policy development, although we are very interested in it. I can say the whole matter still is under active review. I have some specific proposals that will emerge before the end of the fall, not necessarily in legislative form. Obviously, it is a very important matter and you can't say it is only a matter of concern to the Solicitor General. I think because of the Attorney General's overriding responsibility with respect to individual rights in the province that the Attorney General must be involved in this process.

We are still looking at the alternatives very carefully. One of the things I am concerned about is that whatever method—and certainly we are not content just to maintain the status quo—whatever method is developed, whatever procedures are developed, whether they have a specific legislative base or not—I feel very strongly about this—it is not in the public interest to create a system that is going to be totally opposed by the police. If the police find the proposals unacceptable, then there is no way they are going to work.

There are just too many ways in which the police could frustrate any civilian review board. The worst thing that could happen, in my view, is for the police to close ranks on the one side and have people involved in a civilian review board on the other side. This has happened in other jurisdictions. I only mention this as a very basic concern as I reviewed this. I think I will be saying something more about this within the next several weeks as Solicitor General.

**Mrs. Campbell:** Could I just say a word here? We set up a committee at Metro, I believe in 1968 or 1969, to study this question. We came to the conclusion that there ought to be a citizens' appeal review board. One of the reasons I had was quite different from a lot of others. I included theirs; but, you know, from going out in the middle of the night on the graveyard shift with Kesley Merry to see what was going on,

it seemed to me that that kind of a review board could bring a greater understanding to the civilians in the community of some of the hazards and problems.

It seemed to me that nobody was really putting the point in that kind of positive term to the police themselves. At a time when there is some very severe criticism—so often there is more than they deserve, infinitely more than they deserve, I feel—it isn't a bad thing to think that there are people there who go through an educative process in understanding some of the problems they face. I wondered if that would appeal to the Solicitor General, the Attorney General, the secretariat, or whoever it may concern, in discussing the matter with them. I think there is a very real point to be made there.

I don't think the public understands for one second the complexities of their work or the hazards they face, particularly in the dead of night.

**Hon. Mr. McMurtry:** To me, this is a very interesting topic and I'd be quite happy to pursue it for some time even in these estimates, because I agree with what you say, Mrs. Campbell, but it represents to me in one respect what can be accomplished by this type of interaction. What I am concerned about is, at what point do you sort of formalize this interaction as opposed to just bringing it about without a formal bureaucratic structure being put in place? I think you're absolutely right, that the more interaction that occurs the greater the understanding.

All I'm saying is before we formalize a bureaucratic structure, which is part of the nature of the beast, I think there are some other methods and initiatives that we still should review. This is what I'll be directing my attention to in the next several weeks when we have the proposals more formalized. I'm not saying that no, there should not be civilian review boards. I'm not taking that position. I'm just stating that I think there are some other initiatives that we should be looking at as well.

**Mr. Ziemba:** There will be resistance to anything other than self-policing, won't there?

**Hon. Mr. McMurtry:** I'll have to tell you that in my respectful view, fundamental to any successful organization, successful and important and vital institution, is a commitment to self-policing. If we ever create structures which will in any way discourage police forces from making a commitment to the right sort of self-policing then

we could pay a terrible penalty down the road.

I think any institution or any structure that is created should maximize the encouragement of self-policing, whether we're talking about policemen, doctors, lawyers, engineers, et cetera.

**Mr. Ziemba:** I've had an awful lot of trouble with the law society lately.

**Hon. Mr. McMurtry:** I know it's a controversial topic and there's a lot of wisdom on both sides of the argument.

**Mr. Stong:** You recognize as the minister—and I think you probably do recognize this—that there are two aspects perhaps to policing. There's the self-policing aspect that should arise vis-à-vis the police and being a para-military institution and chain of command type of thing all the way down, but the police officer vis-à-vis his relationship with the public perhaps is where this citizen's complaint comes in.

I agree with you we do need self-policing and the self-policing should be an internal management type of thing as opposed to the other principle, which is contact with the public, so that we could have both of those facets recognized.

**Mrs. Campbell:** It seems to me, Mr. Chairman, that earlier on in discussing violence the Attorney General was concerned about the fact that the public so often walks by on the other side of the street and does not wish to participate. I'm not sure—I have no statistics and I don't know how you'd get the statistics—that at least some of that is not the result of some alienation so far as the police themselves are concerned.

I think the alienation grows out of ignorance in a great many areas, and unfortunately you do get with the police, as you get with lawyers, doctors and anybody else, some people who bring discredit on the organization. But for the forces we have in this province, I think there are very few, comparatively speaking, of these kinds of incidents and I for one feel that the public needs somehow to have a closer understanding of the functions and the hazards and the problems they run into.

[3:30]

**Hon. Mr. McMurtry:** Again, I don't want to go too far afield but I just want to make—

**Mr. Lawlor:** I just want to raise a point, we are on another totally different set of estimates.

**Mrs. Campbell:** Yes, we are.

**Mr. Lawlor:** We allow considerable latitude around here, but I don't want—

**Mr. Chairman:** Order, please. If anyone raises a point of order on it I will have to rule in favour of the point of order. Since everyone here seemed to be interested in the discussion I am allowing it to continue.

**Hon. Mr. McMurtry:** I just want to make this one final observation, because we will be discussing this not too far down the road in any event, but I've had the opportunity of looking at some police departments in other jurisdictions and other countries, and whatever our problems are—and there will always be problems with policing—we're pretty fortunate, and I think we all recognize this, in the high level of policing that we enjoy in this province, and I don't know any other jurisdiction, quite frankly, where I'd say it was this high.

I think that's an indication that we who have held or are holding public responsibility have done a lot of things right in relation to policing, and the fact that we haven't sort of jumped and grabbed what appears to be the most recent fad in relation to policing, as they have in other jurisdictions, I personally believe has something to do with the high quality of our policing.

Item 3 agreed to.

On item 4, law research (Ontario Law Reform Commission):

**Mrs. Campbell:** Mr. Chairman, I know that my colleague, Mr. Lawlor, has some points to be made here and in the interests of fairness I'm not prepared to discuss this but will leave it to him.

**Mr. Chairman:** We have only 27 minutes left so I expect we're not going to get through this item anyway. Mr. Lawlor, perhaps you could lead off.

**Mr. Lawlor:** First of all, there is a very considerable increase in the actual expenditure of last year, \$263,000 to \$351,000 in these estimates. Why is that?

**Hon. Mr. McMurtry:** I think perhaps the Deputy Attorney General could give a more comprehensive response.

**Mr. Leal:** I think it might be helpful, Mr. Chairman, if I were to point out to Mr. Lawlor something that I found out only recently in connection with these numbers. If you will look, sir, at the 1977-78 actual and 1977-78 estimates you will see there is quite a discrepancy there, about \$80,000.

**Mr. Lawlor:** It's \$88,700.

**Mr. Leal:** Yes, and actually it arises out of the fact that \$63,300 were transferred

from salaries to services. If you look down at services, you'll see that there's a very large increase in the actual over the estimates. That's why it comes about, plus the fact that there was a difference of \$30,000 for a products liability study which was not contemplated when the estimates were put together, that was on salary, plus another \$4,500, so it made it \$34,500 and that makes up that discrepancy that you observed here, I think.

**Mr. Lawlor:** It's a products liability study.

**Mr. Leal:** Yes, sir.

**Mr. Lawlor:** That's been referred out, I take it, to some law school, some professor?

**Mr. Leal:** Yes, it's been commissioned by the law reform commission with Professor Waddams at the faculty of law, University of Toronto. Steve Waddams.

**Mr. Lawlor:** I have a bit to say on this. I particularly want—

**Mrs. Campbell:** Please speak out. We can't hear your asides.

**Mr. Lawlor:** Oh, can't you? I'll have to stop smoking.

I want to refer to Dick Bell's article, Law Reform: Programs and Priorities, contained in the Gazette in March 1978. He surveys the whole field. The talk was given, I believe, at a meeting of the Commonwealth Reform Agencies in London, England, in the previous year.

There are one or two things deserving of mention, because they affect the philosophy of law reform commissions generally. He's saying, first of all, that there is a tendency to devolve all change in law upon law reform commissions. He regrets that and feels that if that is involved in all the jurisdictions concerned with these commissions, and if that is an ongoing tendency, it is to be lamented and to be worked against. If that were the case, he says, these commissions become royal commissions or task force inquiries of various kinds. There is a tendency to go off in that direction. His nostrums in this particular regard, I accept.

As a second point, he talks about broad studies as opposed to a series of small reforms and makes some rather blunt, even scarifying, statements. At page 65 he says: "Board studies, yes, but with feet on the ground rather than a head-in-the-clouds approach." It sounds great. I'm one of those of the heads-in-the-clouds school, provided that you've got your feet on the ground. I don't know why you can't be a little bit of both. This plodding, empirical, pragmatic, piecemeal business that so typifies what is



called British intelligence is something that bemuses the self, I can tell you.

I read into this, in my own covert way, a kind of attack on the Canada Law Reform Commission. "A high profile of controversial reports ahead of their time will not promote genuine law reform. Indeed, it will set it back." It goes on in this particular vein.

I want to express my discontent with that general approach, which leads directly into the third consideration—

**Hon. Mr. McMurtry:** Was this an attack on the federal law reform commission or Richard Bell's musings?

**Mr. Lawlor:** A combination of Pat Hartt's musings and his various abjurations—I think that is the word.

Then he says, "Shall we go into restatement problems? Scarman says this is the least profitable." I don't doubt that, in that particular area and given the approach, it might be so in Britain.

I'd like to quote: "In Ontario we expect soon we will be effecting effectively a new limitations code based on the commission's report." Let me pause there.

We have been promised this limitation statute for quite a while—almost ever since I've been here; which is too long—about seven or eight years anyway. Where does that stand?

**Mr. Leal:** We have a bill which we will introduce as soon as we have legislative time, sir.

**Hon. Mr. McMurtry:** We had hoped that we might introduce something this fall. Needless to say, there has been a very vast number of submissions to our report. Our problem right now is finding the legislative time to introduce a bill. I don't know what point we've reached with respect to the drafting of the legislation. Mr. Deputy Attorney General, perhaps you could assist.

**Mr. Leal:** I think it could be tidied up very quickly for purposes of introduction as long as we could get a block of time to deal with it. As you know, it's rather unattractive and plodding stuff, but we do have a bill.

**Mrs. Campbell:** In that case, since I'm sure it must be most comprehensive, what is the objection to introducing it so that some of us can have an opportunity of studying it? All too often we get something like that and we're asked to debate it within—

**Mr. Leal:** That was done.

**Mrs. Campbell:** It was done? I haven't seen it, but perhaps I wasn't the critic at that time.

**Mr. Leal:** We had a bill, and it was circulated—

**Hon. Mr. McMurtry:** Was a draft not circulated?

**Mr. Leal:** Yes.

**Mrs. Campbell:** You haven't seen it, Pat? I haven't seen it.

**Mr. Leal:** We'll give you copies.

**Mrs. Campbell:** Oh, dear.

**Mr. Lawlor:** Oh, dear. These critics. In any event, I'll check that out and let you know if I haven't got one available. I would like to look at it; it is important law.

**Mr. Leal:** Mr. Chairman, perhaps I may have spoken too quickly. Quite candidly, I don't remember whether the bill was introduced and let die on the Order Paper for comment, or whether it was simply circulated in the form of a white paper and comment invited.

**Mr. Lawlor:** I think you're right.

**Mr. Leal:** It may have been simply the latter. We'll check that out. But, in any event, there is a bill.

**Hon. Mr. McMurtry:** Yes, you've certainly received the white paper.

**Mr. Lawlor:** There is a document, yes; I think that's true.

**Mr. Leal:** I thought it was introduced, but that may be wrong.

**Mr. Lawlor:** No, I don't think it's been introduced.

**Mrs. Campbell:** I haven't seen one.

**Mr. Lawlor:** He goes on to say: "My personal opinion is that the progressive codification of the common law is practical and long overdue. I do not mean mere re-statement of existing law. It would be folly to codify the great masses of archaic or obsolete or unjust law. The target of a law reform commission should be to reform the whole of the law in a particular field, proceeding systematically field by field to update it and make it contemporary, and then state it in a simple codified form." That's what I think is what is the missing element. To a point, the law reform commission has done that, but only in a very restrictive way.

What's missing is that larger vision of the whole. Modern lawyers have to operate with the amassed codes of law and the constant pouring in of reports through the great nether libraries, bearing human beings under a plethora of material. The extremely assiduous and pertinaciously clever ones work through this; hence the higher and higher degrees of specialization. But for one

to have a holistic view of the law, to be able to hold it in some kind of focus and to its interleaving parts, which is absolutely critical to a balanced jurisprudential system, we need a larger vision.

How are you going to do it? The only way you can possibly do it is by way of a code that can be drawn up—far more searching than the law restatements done by that institute in the United States—in other words, projecting it into the future and seeing what is the contemporary, living law of our citizenry at this time. That should be done, and that's the future role of the law reform commission. Again, simply to the extent that this makes any difference, I would add my weight and imprimatur, if you will, to what Dick Bell has said in that particular paragraph; it's pregnant and pertinent to the issue as nothing I've seen about in our jurisdiction has been up until now. I would like your response to that.

[3:45]

**Hon. Mr. McMurtry:** I'd like to make a brief response to that as someone who hasn't spent a good part of his life in law reform, as the Deputy Attorney General has.

First of all, it seems to me the goals that our friend Richard has set out make a great deal of sense, but I should quickly add that in my view they have been pursued by the law reform commission. For example, just take our own family law reform bill, which all of us around here worked very hard on. That in many respects codified a lot of the common law, removed a lot of the unjust common law and, in effect, was a very good example of carrying out that mandate. But in using this example, I think it's a good illustration of just how difficult that is.

While it is a desirable goal to suggest that the process can be speeded up, I think it's totally unrealistic, except to a limited degree; otherwise, legislators are going to have to abdicate their responsibility altogether. Regardless of how well we're served by our law reformers—and I think we are well served, at least in this province—in the final analysis the legislators and those of us who are elected by the people are going to have to pass on this codification. I think the law reform commission has given to the legislators of this province a pretty full plate in recent years. I just make that preliminary observation.

**Mrs. Campbell:** I was going to say that my friend speaks like a Scottish law lord.

**Mr. Leal:** Mr. Lawlor has invited my response, and perhaps he ought to have in-

vited it from Dr. Derek Mendes da Costa, who is the present chairman of the law reform commission, and I suppose for that reason it's in better hands than it used to be, Mr. Lawlor.

**Mr. Lawlor:** Oh, I wouldn't say that. Oh, no.

**Mr. Leal:** I would respond directly to your question.

**Mr. Lawlor:** You have a worthy successor, that's all.

**Mr. Leal:** Dick Bell, my former colleague, is quoting Sir Leslie Scarman in that article. Scarman, of course, was dreaming; and one of his dreams was badly shattered because, at the time he quoted that, Scarman's English Law Commission—so called the Law Commission—and the Scottish Law Commission were locked in a joint effort to codify the law of contract, and it didn't happen.

**Mr. Lawlor:** Not with the Scots, no.

**Mrs. Campbell:** The Scots were the best impartial law lords we had.

**Mr. Leal:** I never knew the reason until now, but I accept that.

**Mrs. Campbell:** Don't you dare.

**Mr. Leal:** The other thing I want to say, if I may reinforce what the minister has just said, is that there is in the realm of possibility the chance of doing something other than codification of the whole of the law of contract; that is, to do what we have attempted to do in this jurisdiction—and I think we have achieved this to a remarkable degree—to package certain discrete areas.

For example, sir, take the Personal Property Security Act, and let your mind dwell on the number of disparate statutes that were put into that: the Bills of Sale and Chattel Mortgages Act, the Conditional Sales Act, and at least three others; and they're in a package. We took a lead from the uniform commercial code in the United States and said, "Look, this is one article dealing with personal property interests; put it in as a package," and that was done. The Law Reform Commission is now doing that on the sale of goods. We did it—or he did it on family law.

**Mrs. Campbell:** I thought we did it.

**Mr. Leal:** We have done it. I have looked back to the 1925 property legislation in England which was put through the House by Lord Birkenhead, and it's that thick. That couldn't happen any more. There isn't enough legislative time to do it. Mr. Lawlor, you know how difficult it was to find time to do the family law legislation.

**Mr. Lawlor:** You're telling me.

**Mr. Leal:** If you get a code which would be much more expansive than that, it really does present problems in the legislative process. I'm with my former colleague, Mr. Bell, on the principle that tidying up and codification is a good idea. It's unrealistic in terms of a minority House, anyway.

**Mrs. Campbell:** Oh, I think on the contrary it would be easier in a minority House.

**Mr. Leal:** You do it a few steps at a time. You keep moving toward it. I would say this in closing, if I may, the Ontario Law Reform Commission, perhaps even more now than when I was there, is working on a package of property legislation which, when it's all put together in some revision, say 20 years from now, will be a code of property law, there will be a code of family law, there will be a code of evidence, there will be a code of personal property law, there will be a code of sales, and it will all be there in a way which is as good as the civil code, if not better.

**Mr. Lawlor:** Good. All I'm asking is are they working toward that end?

**Mr. Leal:** Yes, they are.

**Mr. Lawlor:** Just as an aside, I think that we pride ourselves in the common law to such a grotesque extent over against continental jurisprudence in all its forms, which codify everything. That there is an animus in the profession against setting up codes, and that has to be worked against, too. But as I say, I think it's becoming an increasing necessity. Just one other thing on this article, there is a sentence here which says: It does not mean, however, that the commissions in Canada do not attempt to eliminate obsolete enactments during the course of a project, and to consolidate related provisions in a single comprehensive statute. That is a constant purpose and I shall not rest content until quia emptores ceases to be part of the law of the day. I thought I would ask you to give us a little lecture on quia emptores. I'm sure that 90 per cent of the lawyers who read that, including myself, will wonder what in blazes that one was.

**Mr. Leal:** Mr. Lawlor, as you know, you and I at home talk of nothing else.

**Mr. Lawlor:** Breakfast food.

**Mr. Leal:** It was the wont at one time to describe an act of Parliament in terms of its first two words, the same as the Psalms *te Deum, nunc dimittis, et cetera*, and so quia emptores means because sellers have been wont to sell their lands in a manner by which the king is defrauded of his feudal

dues, henceforth we won't have any more of that. So it was an act to prevent subinfeudation. It is the basis of our real property system of holding law in which my colleague and his colleagues, the law reform commission, I'm told have now a report—no I'm sorry, the working paper which will sweep all that aside and come up with—

**Mr. Lawlor:** Are you saying that subinfeudation is the foundation of the property law of Ontario?

**Mr. Leal:** I think almost entirely, yes.

**Mr. Lawlor:** I should have never gone to law school.

**Mr. MacBeth:** Obviously, you didn't.

**Mr. Lawlor:** Bora Laskin taught me this subject.

**Mrs. Campbell:** John J. Robinette taught me.

**Mr. Lawlor:** So it bears over, of course, it's not contained in our statutes as you look at them in the four volumes.

**Mr. Leal:** No, but it was brought in as part of our statutes in 1910, in the reign of Edward VII, and it was an English statute which now exists in pristine form as part of the statutes of this province. Quia emptores, no less. It isn't carried forward in the revision, but if you go back you'll pick it up. I'm prompted to say it's in volume six, which is an appendices of the statutes which are not normally numbered. They're all there, like Magna Carta, quia emptores, de donis conditionalibus, et cetera, all the goodies.

**Mr. Lawlor:** The 1688 statute on human liberty.

**Mr. Leal:** Yes.

**Mr. Lawlor:** Okay. I'll invite you out to dinner the day it's passed.

**Mr. Leal:** I accept.

**Mr. Lawlor:** Okay. Just one other thing: I don't suppose the law reform commission of this province needs any particular guidance from presumptuous people at this particular gathering. However, various areas must be looked into.

Some work has been done on charitable institutions, but not on charities generally. The law of sureties has been studied in many jurisdictions; that is, guarantees for consumer credit, the role of the guarantor and what information must be supplied to guarantors.

The Frustrated Contracts Act has not been looked at for quite a while; and that would be an area of contract law.



The bugbear back in those days—and nothing has been done—the whole law of consideration, might be looked at.

Contempt—civil contempt particularly, and contempt within provincial jurisdiction—is an area I think you can conjure with these days. One is never quite sure as to the report on that.

Civil disabilities upon convictions seem to me to be another area.

Nothing has been done, so far as I know, by the law reform commission in firearms law. True, it's largely federal, but I am sure it has implications in the commercial area in the province of Ontario.

I would like to see them do some work in terms of privileged communications—not necessarily our privileged communications, Mr. Ziembra, but privileged communications generally. That remains.

The work has been done in products liability, as you say, it is being done there. In that area I'm most interested in strict liability; that's the developing law in that tort area. There has been work done by the Council of Europe Convention, and there is an EEC draft directive available in that whole area.

I am almost finished. Prenatal injury with respect to tort and accident liability—

**Mr. Leal:** We have that, sir. That's in the Family Law Reform Act. We've picked that one up; which is the only one out of this long list, I may say, that we have.

**Mr. Lawlor:** And, finally, the powers and duties of trustees.

**Mr. Leal:** Mr. Chairman, I thank Mr. Lawlor for this list.

**Mr. Lawlor:** That's my short list.

**Mr. Leal:** I would perhaps just say that the Law Reform Commission is considering frustrated contracts, consideration and a number of other items in the law of contract, which they plan to do after the Sale of Goods Act project has been completed.

As regards the others you mentioned, they are of course dealing with products liability in the terms which you recommend, as strict liability and not under warranty, the way it was. Prenatal injury we dealt with.

**Dr. Mendes da Costa** is here and, if he hasn't written these down, I certainly can provide him with them. We'll pass them along and let our commission consider whether and when they might take them on their plate.

**Mr. Lawlor:** You see, there is no mention made in the most recent report I have, the 11th annual report, about possible projected studies in the first two areas you mentioned,

the frustration and the consideration. I don't know whether they should give consideration to saying, when publishing a report, "We do intend at some future date to do some studies." That list may be too long as to what their projections might be, but some indication perhaps would be helpful to us in the reporting process rather than what has been de facto achieved.

[4:00]

**Mr. Leal:** I didn't mention the last one, but I have marked it—the powers and duties of trustees. That is being dealt with in a report which is now in the final stages of completion; it's a report on the law of trusts generally.

**Mr. Lawlor:** Okay. I'm glad to see you're doing class actions. Take a look at my bill.

**Mrs. Campbell:** And support it.

**Mr. Lawlor:** It will be totally unhelpful, I can assure you. But it's the best that a private member without any research whatsoever can put together.

**Mr. Chairman:** Before adjourning, are there likely to be any further questions and comments on this item? Mrs. Campbell?

**Mrs. Campbell:** No, I think not.

**Mr. Chairman:** Mr. Lawlor?

**Mr. Lawlor:** No, I think we can pass this one.

Item 4 agreed to.

On item 5, royal commissions:

**Mr. Chairman:** Shall we pass the whole item? Does anyone have any comments or questions on royal commissions?

**Mr. Lawlor:** I would like a list of the royal commissions. I know of Carlton Williams' information studies. I take it that part of this vote is the Robarts commission on Metropolitan Toronto; I could be wrong. I take it that Mr. Justice Kelly's Court of Appeal work is finished but that some of the cost is caught up in here somewhere. What else is there?

**Mr. Leal:** Could I just read through them quickly, Mr. Chairman, indicating the ones that are no longer current?

The inquiry concerning health, safety and working environments of miners, the so-called Ham commission, is completed.

The inquiry concerning the structure, organization and operations of local government within Metropolitan Toronto, the so-called Robarts reports, is completed.

The inquiry into Toronto jail and custodial services, the so-called Shapiro report, is completed.

The inquiry concerning violence in the communications industry, the LaMarsh commission, is completed.

On the inquiry concerning Algoma University College, one or two items are coming in, but they are accounting items. I think the report is in and mostly done.

The inquiry concerning North Pickering land sales is no longer current.

The inquiry concerning aluminum wiring is completed.

Mr. Justice Cromarty's inquiry concerning Ronto is completed.

The inquiry concerning freedom of information and individual privacy, the so-called Williams commission, is current.

The inquiry concerning pensions—that is the one with Donna Haley as the chairman—is current.

The inquiry into waste management is completed.

The inquiry into the behaviour of Judge Williams is completed.

The inquiry into the confidentiality of health records, the so-called Krever commission, is current.

The judicial inquiry into the care of Kim Anne Popen in Sarnia is current.

The inquiry into discounting and allowances in the food industry in Ontario is current.

So there are five current inquiries, Mr. Lawlor.

**Mr. Lawlor:** Thank you very much. And the others are caught up—some moneys have been expended in the past fiscal year?

**Mr. Leal:** Yes, that's right.

**Mr. Lawlor:** That's why it's here. Or there are still moneys to be paid out?

**Mr. Leal:** That's right, sir. In one or two of them, accounts are still dribbling in, but of a very minor nature.

**Mr. Chairman:** Do I take it, Mr. Lawlor, that you will be wanting to pursue some questions on that item when we next meet?

**Mr. Lawlor:** On to royal commissions.

**Mr. Chairman:** I beg your pardon?

**Mr. Lawlor:** On to royal commissions.

**Mr. Chairman:** Fine. We will adjourn to Wednesday when, unfortunately, I will be out of town with another committee. But I hope that maybe—

**Hon. Mr. McMurtry:** Are we meeting this Wednesday at 10 o'clock?

**Mr. Chairman:** At 10 o'clock. I hope that maybe Mr. Ziemba can take the chair at that time. Can you?

**Mr. Ziemba:** Yes.

**Mr. Chairman:** Thank you.

The committee adjourned at 4:04 p.m.

## CONTENTS

---

Friday, November 3, 1978

Law officer of the Crown program .....	J-365
Attorney General .....	J-365
Deputy Attorney General .....	J-367
Policy development .....	J-370
Law research .....	J-377
Royal commissions .....	J-381
Adjournment .....	J-382

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P. (Humber PC)  
 McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Stong, A. (York Centre L)  
 Ziemba, E. (High Park-Swansea NDP)

**From the Ministry of the Attorney General:**  
 Leal, H. A., Deputy Attorney General













# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Wednesday, November 8, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

WEDNESDAY, NOVEMBER 8, 1978

The committee met at 10:10 a.m.

After other business:

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1301, law officer of the crown program; item 5, royal commissions:  
[10:40]

**Mrs. Campbell:** Could I briefly raise one question, Mr. Chairman? We have passed the vote on the Deputy Attorney General. You may recall that I addressed a question to him about the verbatim reporters. The information he gave us was in good faith, to the best of his knowledge and all the rest of it at the time, but there has been subsequent information, and I have spoken to the Deputy Attorney General, who is going to review the matter. I just wondered if he could be allowed to make a statement on it tomorrow to bring us up to date, even though the vote has been passed.

**Mr. Chairman:** I think that would meet with the approval of the committee.

**Mr. Ziembra:** How much more time is there to consider these estimates, Mr. Chairman? Do you have any idea?

**Mr. Chairman:** Yes, I think we just announced that it's nine hours and 18 minutes.

**Mr. MacBeth:** What hours are we sitting this afternoon?

**Mr. Chairman:** We're not sitting this afternoon.

**Mr. MacBeth:** All right. So we're sitting until 1 o'clock, with no sitting this afternoon?

**Mr. Chairman:** Yes.

**Mrs. Campbell:** I'm sorry, Mr. Chairman. I have a caucus at 12. I am sorry about that, but it's unavoidable. I will have to retire at 12 o'clock. I don't know where it leaves us. I have sent for some of the troops. I don't know where they are.

**Mr. Chairman:** Can we agree that if there's any particular vote that you wish to speak to at 12 o'clock, when you're leaving, since you are the critic, we will not pass that vote?

**Mrs. Campbell:** Thank you.

**Mr. Chairman:** I also have a problem that, as the transportation critic, I should be in another room dealing with my own estimates at the moment—

**Mrs. Campbell:** We are peripatetic in here!

**Mr. Chairman:** —so I am going to ask Mr. Ziembra to take the chair for the rest of the morning.

**Mrs. Campbell:** I think Mr. Lawlor had the floor on item 5, royal commissions. I don't know whether he had completed his discussion of that or not.

**Mr. Lawlor:** I am finished.

**Mr. Acting Chairman:** Any comments on item 5?

Item 5 agreed to.

**Mrs. Campbell:** Is that vote then to be passed?

Vote 1301 agreed to.

**Mr. Lawlor:** Just one question; maybe it's on vote 1301. In previous years under this general vote there has been an allocation made for compassionate allowances. Where is that now? Is there any compassion left?

**Mr. Leal:** Mr. Chairman, I am informed that there is one item in vote 1302—item 2, for \$8,000—which appears at page 18 of the summary to which we are now referring. Perhaps we could leave it until that time, Mr. Lawlor.

[10:45]

**Mr. Lawlor:** Yes, okay.

On vote 1302, administrative services program; item 1, main office:

**Mrs. Campbell:** I have covered the field of main office rather broadly in my opening remarks, so I have nothing further to add.

**Mr. Chairman:** Item 1 carried?

**Mr. Lawlor:** Item 1 is a big item. It has to do with legal aid. I take it that this is where we are going to discuss this matter and the \$27 million involved. I wouldn't want to skip it. It does seem to me to have some relevancy.

I'm not going to spend a great deal of time this year on legal aid. I want to congratulate the Attorney General (Mr. McMurtry) on the retention of the legal aid concept and his affirmation on numerous occasions and in



many speeches in the last year, giving recognition to the concept and saying that he stands thoroughly behind it, against a goodly number of people I suspect in his own party and caucus. He's doing a great service to the province in this particular regard.

When the amount of money coming in from the law foundation, from the federal government and by way of fees, which have increased—I don't know if the word is substantially, but it is better than it used to be—cuts into the amounts of money that the Attorney General is allocating here, then the sum, over against the benefits, isn't all that great in the area of legal aid. The second thing he is to be commended on has to do with his affirmation and his extension of the community offices throughout the province. There are about 27 offices. There has been a considerable emphasis placed upon this, partially I suspect, in response to the critics of past years and we agree wholeheartedly. That is a vital portion. That is the portion that has been traditionally resisted by the practising bar, but not intransigently by any means. There is a tendency for self-protection in these things, as with any professional organization.

However, in the exercise of his jurisdiction, the Attorney General has placed the emphasis sufficiently in the right place. I want that to broaden into other communities and to continue to be closely monitored and surveyed to see that it is really working in an efficacious way. When one of those community centres was under fire and in effect dissolved, there was some trepidation on the part of people like myself that this was a harbinger. In face of that, many new offices opened. I have to confess that my fears were misplaced in this particular regard.

These offices perform a very vital service in conjunction with our constituency office, where we perform, to some degree, the same level of service in a whole host of agencies, not just restricted to the province but reaching out in many instances to the federal government. How many unemployment insurance cases do we handle? A very considerable number of immigration cases come in. I suppose a third of my work load is in the federal area, believe it or not.

I say nothing against my federal member except that often I can't find him. But leaving little things aside, we are pleased to perform these functions as they exist.

There was some fear back in August in a legal aid letter that circulated, No. 3, that there was a fairly monumental increase in resort to legal aid. It said: "During the first four months of this fiscal year, 75,000 in-

dividuals contacted the 46 area offices for legal assistance, compared with 64,000"—10,000 less—"during the same period last year, an increase of 17 per cent. The number of legal aid certificates rose to 27,262 from 25,492, an increase of seven per cent. The number of people assisted by duty counsel in the province's civil and criminal courts jumped to 57,500 from 47,800, up a figure of 20 per cent."

When I read that during the summer I was fairly alarmed. I suppose that when you saw it you were equally alarmed. That means an escalation of a scale. Our hopes in last year's estimates were that this thing was levelling off and that we had reached some kind of position of consolidation and knew exactly, as far as the Treasury was concerned, where we stood.

I checked with legal aid recently, and while a really up-to-date legal aid report is not yet issued, I find those frightening or even horrendous figures are not accurate and that they didn't continue.

**Hon. Mr. McMurtry:** I'll be tabling a legal aid report on Friday. Perhaps you might come back to that before the end of the estimates.

**Mr. Lawlor:** It would be helpful to see the new figures. From our contacts with that office it doesn't appear to be happening. I have some figures here bringing it down to date. To make it short, that is not really being borne out by the figures as they come. At this point, I shall look at my notes and turn it over to Mrs. Campbell.

**Mrs. Campbell:** I had a couple of questions. Does the cost of the Grange report appear in this vote?

**Hon. Mr. McMurtry:** No.

**Mrs. Campbell:** Is it ready? What is the status of it?

**Hon. Mr. McMurtry:** I gather the Grange report has just been received in the ministry. I haven't had a chance to review it. I will make it available to the members as soon as possible.

**Mrs. Campbell:** I assume it will have some implications for these various community groups to which my friend referred. As I think the Attorney General knows, there has been a little criticism about this matter, based upon some statements that are alleged to have been made. I have addressed correspondence to the minister and I hope he sometimes gets to see it or something happens to it.

I have been pursuing another thing with the law society, as I get their reports of legal aid. One of the things I still have concerns

about is the extent to which lawyers are precluded, unless they wish to embark on something at their own expense, from doing all the things that may be necessary to really prepare an adequate case. I have had some experience with legal aid before we had legal aid, when I think I set up the first legal aid in Ontario on my own in Regent Park some years ago.

At that point, I guess I could have advertised because nobody was paying me to do it. However, it was a need in the community. But I found that over a period of time that the cost to me to do a decent job was pretty horrendous. So I have watched the development through legal aid of those items which they allow and those which they don't. I am concerned that sometimes perhaps they do not have sufficient funds, for example, to travel to interview witnesses and this sort of thing, which I think is absolutely imperative if one is going to do an appropriate job under legal aid.

I would like some comment from the Attorney General on that kind of prohibition which seems to be there. I have addressed comments to them about items which they're warning counsel about. It isn't the tariff per se that I'm talking about; I'm talking about the items which counsel are warned are not covered.

**Hon. Mr. McMurtry:** I am sorry, we don't have a copy of the tariff with us. Interestingly enough, despite the concern that has been expressed by the law society in relation to increasing the legal aid tariff, I have received remarkably few letters in the last few years from individual lawyers complaining about the tariff. As a matter of fact, many of the lawyers, the younger lawyers who participate actively in the plan, believe the tariff, even at its present state, is fairly adequate, although that is not the position of the law society, of course. I have indicated to the law society in the speech that I gave at the annual meeting—I am not sure, did I send you copies of that?

**Mr. Lawlor:** No, I saw it somewhere else.

**Hon. Mr. McMurtry:** We will get copies of this speech for you tomorrow. I think it was the first time the Attorney General had addressed the annual meeting of the law society for many years, which is rather surprising. I indicated to the law society that I felt an increase in the tariff was merited in view of the fact that there hadn't been an increase for five years. We all know the extent to which the cost of living has increased during that period of time.

There is also a recent report that has been prepared for the law society in relation to

the Ontario Legal Aid Plan, and that report I gather will be available very shortly. It indicates the view of the law society's representative, Mr. Syd Linden, who is also a vice-president of the Criminal Lawyers Association, indicating that for the money that is presently spent there could be greater value derived, and that as part of any tariff increase we want to look at the plan as a whole, the extent to which, for example, we might legalize para-legal assistance. There are a lot of chores that are necessary in relation to the preparation of a defence which can be done by non-lawyers. I only illustrate that as one example of areas we are looking at.

**Mrs. Campbell:** Many employees in a law office would confirm that, I think.

**Hon. Mr. McMurtry:** That's right. I am just looking at the tariff here. It allows solicitor's travelling expenses where the distance travelled was 15 miles or more one way and the solicitor satisfies the legal accounts officer that such travelling is reasonable and necessary under the circumstances, though it would appear that there's a wide degree of discretion in relation to this, but there is a specific tariff item.

**Mrs. Campbell:** I'm aware of that. It's just one of those cases where there was a special notice sent out—and I'm sorry I didn't bring it this morning—to which I reacted rather firmly, in my usual style, because it seemed to preclude some areas of transcripts, some areas of things of that kind, where it seemed to me that if we have legal aid it at least must function efficiently for the full benefit of the client.

[11:00]

I would ask you to take a look at it. I'll try to produce it tomorrow if I can find it. However, those were matters of concern to me. I, too, would like to say that I think it is an important matter for the people of this province. The community clinics, such as Parkdale Community Legal Services and others of a similar nature, do a fantastic job. I have always felt the civil aspects have rather lagged behind the criminal in this, although there may be some adjustment in that if we go to the defender system. We might look then to more assistance in the civil field.

**Hon. Mr. McMurtry:** There are many dimensions to this whole issue, as I know Mrs. Campbell appreciates. It is important to note again, and I know this has been recognized by the members of the committee, the Ministry of the Attorney General has made a very serious and firm commitment to the development of the community law pro-

gram. Mrs. Campbell just mentioned the excellent work Parkdale does. We have Mr. Campbell within the ministry, who is the immediate past director of the Parkdale Community Legal Services. So I think it is fair to say the ministry is very supportive of the community law concept. And that has been demonstrated by the substantial increase in funding during a period when the government generally has been committed to economic restraint.

In appointing Mr. Justice Grange, it was the intention of the ministry to clarify the funding criteria in order to encourage the further development of the community law concept. We are faced with a hard reality. Some of the lawyer members of this committee know how expensive it is to run a law office, particularly in large urban centres with high rents and high overhead generally. One of our concerns is the extent to which all services can be adequately provided through the traditional law office structure, as opposed to services which can be more effectively provided, in both a practical and economic sense, through community law offices. This is an issue that has received a great deal of attention during my stewardship.

**Mr. Acting Chairman:** We are on vote 1302, item 1, Mr. Lawlor?

**Mr. Lawlor:** I have four or five little items. On the Linden situation—he is studying class actions, group actions and that sort of thing—could you bring me up to date on that particular inquiry?

**Hon. Mr. McMurtry:** On the Linden inquiry?

**Mr. Lawlor:** When do you expect the committee's report?

**Hon. Mr. McMurtry:** A preliminary report has been submitted. It is being considered by the Law Society of Upper Canada now and they have asked for an opportunity to consider all its implications before we release it publicly. I would expect the report would be available, to the members of this committee at least, very shortly.

**Mr. Lawlor:** Good. The second matter has to do with duty counsel at city hall. The scheme was initiated, as I remember, in September 1976 for two years. I take it, of course, that it is being extended.

**Hon. Mr. McMurtry:** Yes, certainly that's my understanding.

**Mr. Lawlor:** Have you in the period of time been able to get a cost benefit study of that operation over against what existed previously?

**Hon. Mr. McMurtry:** My information is that the services that are delivered by this duty counsel office at the old city hall are being delivered more effectively at a cost saving.

**Mr. Lawlor:** At a cost saving?

**Hon. Mr. McMurtry:** Yes.

**Mr. Lawlor:** Can you tell me what that cost saving might have been in thousands?

**Hon. Mr. McMurtry:** We will try to get that information for you. We do have some figures but we are talking certainly in tens of thousands of dollars.

**Mr. Lawlor:** How many individuals are employed now?

**Hon. Mr. McMurtry:** I will have to clarify that. There was a director and I believe about six employees, but again that's just a guess. I will have to confirm that.

**Mr. Lawlor:** Are all these employees experienced counsel or just recently out of law school?

**Hon. Mr. McMurtry:** I think the majority of them are relatively recent graduates but it is a mix. By reason of the high degree of specialization, namely, that they are in the courts daily, even the young graduates become familiar with court procedures and bail applications at a pretty early stage because they are doing that every day as opposed to the average young graduate who may only occasionally appear in provincial court. The director of the operation is a very senior counsel, a former assistant crown attorney, who has been at the bar for many years, John Weisdorf.

**Mr. Lawlor:** You were talking about an increase of tariff. Would you care to comment on the following two questions? Does the tariff encourage the prolonging of cases or not in your opinion? Does it or does it not encourage guilty pleas?

**Hon. Mr. McMurtry:** I don't believe it encourages either one. I know both arguments have been made. I have yet to see any figures that impress me that there is much validity to either argument. I'm sure, like every system, unfortunately, there may be the odd individual who abuses the system and drags out a case unnecessarily. Personally, I believe those individuals are really not many in number and that cases are dragged out much more as a result of inexperienced counsel than as a result of any attempt to increase the legal aid account in the individual case.

There are lawyers and judges who have different views. I have watched this pretty closely and I am not satisfied that that's a



significant problem; neither am I satisfied that lawyers are encouraged to plead guilty by reason of the fee structure.

**Mrs. Campbell:** Did you say lawyers are not encouraged to plead guilty? Do you mean on behalf of the client?

**Hon. Mr. McMurtry:** Yes, on behalf of their clients.

**Mr. MacBeth:** It should be the other way.

**Mr. Lawlor:** The guilty pleading guilty.

**Hon. Mr. McMurtry:** I personally have sufficient confidence in the legal profession to feel it is most unlikely that any lawyer is going to sacrifice a client in that manner, which of course would be not only unprofessional but really would almost involve conduct of the most reprehensible nature and a form of dishonesty that I don't think exists in the legal profession. Every profession has its bad apples, its exceptions. A few get disbarred every year.

**Mr. Lawlor:** Not too many arising out of legal aid problems, though.

**Hon. Mr. McMurtry:** Probably not.

**Mr. Lawlor:** If you watch the reports, it's mostly defalcation, trust funds, et cetera. I guess that's fair enough. That's hard to say, but as you say, the constant sniping against legal aid very often takes that form. Judges on occasion engage in that particular type of critique also.

To turn to figures for a few moments, just to get them on the record really—

**Hon. Mr. McMurtry:** I would just like to interject this comment in case we don't come back to this, there is invariably a lot of controversy surrounding legal aid. I want to reiterate what I have said both inside and outside of the Legislature, and that is that despite the problems and criticism the Ontario Legal Aid Plan is certainly one of the finest plans available anywhere, and that the services provided through this plan are generally provided in a very admirable fashion. The plan has served the citizens of Ontario effectively and has been of great benefit to many thousands of individuals who, without this plan, simply would not enjoy the representation they presently receive.

At the same time I have to say that the public has relatively little appreciation of this fact, generally. I think that is regrettable. One of the problems we face, those of us who support the legal aid plan—and I know the plan is supported by the justice critics of both opposition parties—is the perception in the minds of the public that the plan is serving principally people who are

involved in criminal activity of one kind or another—

**Mrs. Campbell:** And recidivism.

**Hon. Mr. McMurtry:** —and recidivism. As a result, in the minds of at least a good portion of the public, the plan does not receive the support it merits. I believe very strongly in this point, that there is insufficient recognition of the fact that the quality of legal defence that is provided to the ordinary citizen, even the most reprehensible of citizens, is a hallmark of the quality of any civilized nation. I think it is regrettable that so few of our citizens are able to acknowledge that a legal aid plan, for example, which ensures that the great majority of individuals receive competent legal counsel is a very important bulwark of a free society. All of us have a responsibility to make that point as often as we can. It saddens me that the Ontario Legal Aid Plan does not receive more enthusiastic support in the community.

**Mr. MacBeth:** Just before we leave legal aid, I want to put on record my support of the plan. I likewise, however, have been concerned by the public criticism of various aspects of legal aid. As Mrs. Campbell has mentioned, one of the things that disturbs a lot of people is the matter of recidivists. I know all the arguments: why, no matter how many times a person is charged with a criminal offence, is it necessary that the state protect him and supply defence for him. I know that bothers a lot of people, although as lawyers I think we appreciate the need for it.

One of the things that has bothered me, however, is perhaps the number of times people could come back in such matters as divorce and things of that nature. I have also taken some exception to the number of times people who are not citizens of either Canada or Ontario are defended on charges of illegal entry by the system when they are not taxpayers—one arm of the government fighting the other arm of the government—but I realize this is tied up with your federal commitment in connection with it. That, I say, bothers me a little bit, but it is a federal commitment.

[11:15]

What instructions are put out by the Attorney General's ministry, or the law society itself, in regard to the representations on divorce matters? Can a person come back to the well five times, or is there some restriction on that?

**Hon. Mr. McMurtry:** I must admit I hadn't heard of complaints before in relation to recidivism in respect of divorce.

**Mrs. Campbell:** That was not my reference.

**Hon. Mr. McMurtry:** The term "recidivism" is probably quite inappropriate in relation to divorce. But I hadn't been aware, Mr. MacBeth, of that being a significant problem. Recidivism in relation to criminal offences is the subject matter of some complaint.

**Mr. MacBeth:** Well, I said I understood that part of it.

**Hon. Mr. McMurtry:** Of course, that is a very difficult issue for the law society, because to suggest that—

**Mrs. Campbell:** You have your first bite.

**Hon. Mr. McMurtry:**—your first or second or third crack at it and that's it, may deprive an individual of a needed defence in cases where a defence is not only obviously required but should be extended. I have to say that I have represented recidivists over the years as a defence counsel. They may have been convicted seven or eight times—

**Mr. MacBeth:** Not with you as defence counsel.

**Hon. Mr. McMurtry:**—not when I acted, normally—and on the ninth charge, they may have been truly innocent. I can think of a number of cases where that, in fact, was the case. So it is very difficult to set a cutoff point. I will look into the matter of repeaters in relation to divorces. I hadn't been aware before, quite frankly, Mr. MacBeth, that this was a problem.

**Mr. MacBeth:** I have heard complaints about it, that they were back for their third divorce at legal aid expense. That to me seems a bit of an injustice.

**Hon. Mr. McMurtry:** I thought it was the opposite. I thought people in this social climate felt it just wasn't necessary to go through the marriage ceremony.

**Mr. MacBeth:** You might look into that to see if it is a necessity or part of wisdom to give some instruction either to the law society or otherwise in regard to it. I think there are many out there who at least have the idea that the public is being charged unduly for that type of matrimonial assistance on the third, fourth or fifth time. I want to make it quite clear, I wasn't objecting to the number of defences in the criminal cases at all. I can understand that, sir.

**Mrs. Campbell:** My friend from Lakeshore referred to the duty counsel role. I had invited previous Attorneys General to look

at it and examine for the the benefit of those who perform this very important function just what their role is, particularly as it applies in the juvenile court. I think they have an unusual type of role vis-à-vis the legal-ethical concept. They do try to be of service to the court in trying to find solutions for a child who is in trouble. Often they find themselves in almost a role of conflict between the strict legal interpretation of their function and what they perceive to be a more important function, if you like, in trying to resolve problems.

I did invite that kind of scrutiny in the past. I have never had any response to it, and I throw it out for whatever it may be worth.

But I do know in discussions with duty counsel young people have a very strong sense of conscience about the troubles of the child. Sometimes I think they feel that advice is not the appropriate kind of approach to them. They feel very strongly a conflict between what they've been taught in law school about the ethics of the lawyer and what they see on a daily basis in those courts. I just throw that out for what it's worth.

**Hon. Mr. McMurtry:** I thought this was a matter we had discussed. I thought I'd indicated in previous estimates we were concerned very much about the quality of child representation, not only in juvenile matters involving juvenile delinquency problems where there is a duty counsel. I have certainly stressed the importance of appointing duty counsel who are not only experienced in matters involving the Juvenile Delinquents Act and the family court, but who do have this degree of sensitivity. We certainly are very much aware of that.

As you know, I established an advisory committee on child representation almost two years ago, headed up by Dr. Derek Mendes da Costa and made up of people from the community who have some degree of expertise. I think the point Mrs. Campbell makes is a very valid one, that we have to continue to develop our resources in relation to child representation. I just want to give her the assurance that we regard this as a very high priority and are continuing to do so.

**Mrs. Campbell:** I wouldn't want it to be misunderstood. I have not questioned the quality, I question the dichotomy. I have the highest regard for these mostly young lawyers performing this function. Any I have met have been of very high calibre. It's not the quality, but it's their perceived dual-

ity, if you like, that I think is very difficult for them.

**Hon. Mr. McMurtry:** It's a very difficult problem for any lawyer—

**Mrs. Campbell:** It is for me.

**Hon. Mr. McMurtry:** —and I don't know what the answer is. As a lawyer you have the responsibility of dividing any legal defence. I'm often faced with this problem as a lawyer of acting in matters involving juvenile delinquents—not necessary juvenile delinquents, but those young people who are past the juvenile age—as to what is going to be accomplished by a successful technical “defence.” It may produce the feeling that they are beating the system because they have adequate legal representation. To what extent this can encourage—

**Mrs. Campbell:** Further activity.

**Hon. Mr. McMurtry:** —anti-social conduct in the future, I think is a terribly difficult professional dilemma that is faced by lawyers with young people whether they're juveniles or older.

**Mr. Chairman:** Thank you, Mrs. Campbell. We have Mr. Taylor, then followed by Mr. Lawlor.

**Mr. G. Taylor:** Very briefly, Mr. Chairman, and without trying to appear defensive for lawyers—

**Mrs. Campbell:** For goodness' sake, we don't need you to do that.

**Mr. G. Taylor:** Well shortly I'll be able to advertise, I understand, and then I can be on the offensive at that time.

**Hon. Mr. McMurtry:** You're going to advertise a defence for lawyers, are you?

**Mrs. Campbell:** You should advertise a counsel for lawyers—now you've got the point.

**Mr. G. Taylor:** In your reporting, and I understand it's law society reporting, and I've mentioned this to them previously—but it's what the media do with the legal aid after you do your annual report. It's primarily concerned with the dollars. Usually it is “lawyers get X dollars from legal aid.” When you break down the X dollars, a great deal of that money happens to be transfer payments within the legal aid system. If you take the \$320 fee for a divorce, the fees paid to institute the action, for the discoveries, for everything else, usually outweigh the \$320. Similarly in many of the other actions the disbursements or out-of-pockets usually far outweigh it. So that \$4 million, or whatever it is, that it would appear from the media the lawyers are getting, is not actually that sum.

I don't know how you cover that. I know a financial report has to be accurate, but I'm wondering whether the Attorney General might be considering a little more explicit news releases on those items. Then at least when they're disparaging the lawyers for spending so much, they'd realize that part of that spending is a transfer within government agencies that will be collecting for these operations.

**Hon. Mr. McMurtry:** We invariably attempt to make the point of the contribution lawyers are making every year to the plan by reason of the 25 per cent reduction in their modest fee scale. Unfortunately we don't have much control over the manner in which these matters are reported. Lawyers regrettably are more often than not a favourite target of at least some of our friends in the media.

**Mrs. Campbell:** They are not a protected species.

**Mr. G. Taylor:** They are a favourite target—along with doctors, teachers, unionists, Liberals—

**Mrs. Campbell:** All of which are changing targets, but lawyers never change. They've been beating their brains about lawyers—

**Mr. Lawlor:** On the appointment of Mr. Justice Grange: When that appointment was announced I had some misgivings. I haven't got very deep-seated ones and therefore didn't bring the matter forward at the time.

I had in my mind at that time a report of the Gazette of March 1976: Parkdale Community Legal Service and Its Relationship to Mr. Justice Grange. My misgiving was because I had a vague recollection of the following sentence by Mr. Ellis, who is the director of the centre and a professor from Osgoode Hall:

“As the other representative of the legal profession on the board at the time, the writer was privileged to witness this process at first hand. “Sam”—Sam Grange—“the board's ‘dinosaur’ as he dubbed himself, was often out of step with the thinking of the majority of the board, but his ability to defend his position persuasively without giving or taking offence and without any diminishment of his sense of humour and his obvious willingness to give new ideas and contrary views a fair hearing quickly won for him not only the respect but indeed the affection of the other members of the board.”

That sort of cuts into what you otherwise might have had severe reservations about as to objectivity and preconceptions touching



the general social weal and particularly this area, coming from a particular source.

**Hon. Mr. McMurtry:** Could you clarify that? Are you criticizing the appointment of Mr. Grange?

**Mr. Lawlor:** No, I'm saying I am not. I'm bringing it up because I did have quite deep-seated feelings about that appointment, but there was the vague recollection of this article back a couple of years ago.

**Hon. Mr. McMurtry:** I just want to make the point that Mr. Justice Grange's appointment as commissioner for this important task was very favourably received by the people actively involved in community law.

**Mrs. Campbell:** Not all of them. I wrote to you about that.

[11:30]

**Hon. Mr. McMurtry:** I'll put it this way: the responsible elements of community law—and they are in the great majority—enthusiastically endorsed Mr. Justice Grange's appointment. As in any other human activity, there are irresponsible elements who will criticize whatever occurs at any given point in time. Unfortunately, the community law people have those in their numbers just as we have in our legal profession generally.

As a matter of fact, I heard one of them talking about family law on the radio the other day. Then he phoned the ministry and admitted to one of our senior law officers that he hadn't read the legislation. I refer to Mr. O'Reilly, distinguished citizen Mr. Cyril O'Reilly.

**Mr. Lawlor:** The chairman of the justice committee, Mr. Philip, I think has a letter going to the press today, which for a non-lawyer is a very good letter. He really cuts him up.

**Hon. Mr. McMurtry:** I have a copy. I haven't had a chance to read it yet.

**Mr. Lawlor:** Then Mr. O'Reilly goes out collecting \$30,000, which could be better spent perhaps by hiring a law student to read the law for him.

**Mrs. Campbell:** I didn't think it should be dignified by a letter from the chairman.

**Hon. Mr. McMurtry:** I was surprised that he was dignified by our friends in the media who gave him the platform in the first place.

**Mrs. Campbell:** Maybe they hadn't read the law either.

**Mr. Lawlor:** Any time anyone bites a chipmunk, it's news. Sometimes they almost drive me to censorship.

Grange made a pre-dinner speech up at their camp. The man has some wit and wis-

dom. At the very end of the speech, he says: "Legal services are every bit as important as medical services. It is just that not so many people need legal services, or know they need legal services, and accordingly there is not the pressure. But you can survive a splitting headache a lot more easily than an abiding sense of injustice." It is in that vein that you certainly didn't hear much from me with respect to the appointment at the time. I thought it should be given some recognition in the course of these estimates, however, and as far as I'm concerned I shall let it rest there.

The second thing is that, mostly for the record, I was going to get some figures into Hansard on the plan itself. The year 1976-77 was the 10th year of the plan. The last figures I have are for 1977-78. In the area of applications for certificates there was an increase of only 1.9 per cent, to 105,000, over the previous fiscal year.

In terms of certificates issued, I believe there was a 0.1 per cent increase. On the criminal side it was very low—41,800—and on the civil side it was 34,800, giving a total of 76,600 certificates issued.

The number of persons assisted by duty counsel went up in that year by 11.03 per cent. On the criminal side 128,600 were assisted, and on the civil side the number was 47,200, making a total of 175,900 individuals who were assisted in this particular way.

On those figures, let me say that while in past years, because of the escalating cost, we have tried to say that recidivists, say third- or fourth-time offenders, should be severely scouted with respect to legal aid—

**Mrs. Campbell:** Boy or girl?

**Mr. Lawlor:** Severely guided, I meant to say. I didn't think that my machismo complex would work itself in here. You can't escape it these days.

The other day I was with Mayor Flynn, and he spoke about "ladies" at the opening of a home. They were all women there, except for a couple of politicians, and mostly municipal ones—I understand they are standing for office; so they're everywhere these days.

**Mrs. Campbell:** You fall over them.

**Mr. Lawlor:** That's right; you have to wade through them to assert the superior level of government.

Anyhow, he talked about "ladies," and they all took exception to it. Flynn didn't latch on. My wife whispered to me. "He means 'women'." So he had to change it. Why would they prefer the term "women,"

which puts the emphasis on "men" in a way, over "ladies," which gives a distinctive role, totally bemuses me.

**Hon. Mr. McMurtry:** Perhaps Mrs. Campbell could answer that. I have often been faced with that dilemma when speaking to a group. The traditional greeting is "Ladies and gentlemen." What would be a more appropriate opening? I have yet to discover one.

**Mrs. Campbell:** I don't think it has anything to do with the opening remarks. Usually, what it means is that you get a politician who stands up and says, "If it weren't for you dear ladies, I'd never have been elected," and everybody says: "That's the truth. Why does he have to condescend to us?" There is a difference.

**Mr. Lawlor:** It's more a question of tone.

**Mrs. Campbell:** No, it's a question of context.

**Mr. Lawlor:** It's a question of not telling lies, I suspect.

**Mrs. Campbell:** They don't want to be "dear ladies."

**Mr. Lawlor:** The figure for March 31, 1977, was \$28,754. The amount spent by legal aid in toto in the 1978 year was \$31.3 million, of which the provincial government supplied approximately \$26 million. In any event, if you hear from the individuals involved, it is 0.15 per cent of the budget or 3/20 of one per cent. I must say here that that type of argument, which is used ad nauseam now, doesn't very much impress me. The Ombudsman uses that argument constantly with respect to his budget too. I don't think it is a question of percentages of total budget when you consider how much weight is given to the educational field and the health field—

**Mr. G. Taylor:** Three cents a day per person, and you can break it down any way you want, Patrick. Except everybody is spending three cents here, four cents there, and five cents somewhere else.

**Mrs. Campbell:** It no longer relates to a package of cigarettes.

**Mr. Lawlor:** I guess they would claim we would be spending a quarter of a cent on this. I suppose it has some propaganda appeal. But what you have to weigh here, with zero-base budgeting at least, is the efficacy of the very thing you are talking about, and not go off on these invidious comparisons.

Anyway, about 50 per cent of the cases handled are criminal cases. Of the sums mentioned, in the 1977-78 year the federal

government supplied about \$6 million, interest coming in on the foundation was about \$3 million, legal aid direct contributions were \$1.6 million, and the balance came from the provincial government.

It is never mentioned enough—even among my own colleagues, bless them—that 25 per cent, which isn't part of the actual monetary sum, has been contributed by the practising lawyers themselves. The whole scheme would be 25 per cent more if it didn't lie in that field. From a straight monetary point of view—you know my position on this, which is not quite in accord with that of all my colleagues in this matter—that is very seldom adverted to. I don't even think it is known to the people who are most critical of the scheme being handled by the professional organizations. I'm simply saying it would cost 25 per cent more if it were not so run. Lawyers will accede to the society where they won't accede to an independent governmental body. That's not a substantial part, but it is a salient part of my general feeling and position about retaining it at least for the nonce, in the hands of the Law Society of Upper Canada.

I think it will eventually come out of the hands of the society, not because of external pressures, which seem of recent date to be considerably alleviated partially because of the expansion of community centres, but from the law society itself. I don't think all the members are all that happy that the law society is the administrative agency in this particular area and some of them I've spoken to do not believe they should continue indefinitely to do so because of the irritations and the amount of time consumed in this particular area.

It's a little like the law schools themselves. When Margaret and I went to law school, it was run directly. None of us will ever forget the great foofaraw and the divorcement that took place. On the whole, it turned out to be beneficial, giving the law school and the professors a self-determination and an autonomy they didn't previously enjoy. The law society are quite happy to be relieved of that. They have enough problems with a constantly expanding bar and the business of surveillance.

I see our fees are going up again this year. I find it rather terrifying not to practise very much and to have to pay all these fees. I would pass a special bill in the Legislature that those who do not engage in the practice of law to any great extent, do not have to pay full fees. Sometimes I wonder if I make enough money practising law to pay the bar fees.

**Mrs. Campbell:** We don't have to wonder. Let's complain, sir.

**Mr. Lawlor:** One other point: On page 17 in the schedules you gave us, the amount of legal advice being given is decreasing and I wonder if you have any explanation for that. In 1975-76 there were 3,300 pieces of legal advice. It declined in the next year to 2,700. It increased slightly in the 1977-78 years to 2,800. Is there any explanation or is that just the way the ball bounces?

**Hon. Mr. McMurtry:** I don't know how much assistance we can be, Mr. Lawlor. The only speculation I could offer is that it may be related to the increase in the number of community law clinics during that same period of time and the cases aren't recorded in that manner. That's my best guess.

**Mr. Lawlor:** What I'm fearful of is that there would be some directive or some internal restriction upon giving this advice, so it would be severely restricted or something like that which would cause a fall when everything else rises. That's what I feared and I trust that's not the case.

[11:45]

Just one other thing in connection with it. Look at how the community legal service groups have increased from \$295,000 in 1975-76 to \$1,643,000 last year. That is a phenomenal expansion in that area and should be given recognition and rejoiced in. It shows on the part of the law society itself, with the affirmations of the Attorney General, placing an emphasis where the service in my opinion does the greatest possible good.

**Hon. Mr. McMurtry:** Again I should remind the committee that sum for this year is pretty close to \$3 million compared with \$95,000 in 1975-76.

**Mr. G. Taylor:** I have one on vote 1302-1, the grant to the Canadian Law Information Council. I don't know what that one is at present, but in running through each and every ministry's estimates where there is a heading "transfer payments," there appears to be a continuous rise in the number of groups and organizations under those headings.

As an individual I can ask do we gain a benefit from that, what groups should be there and what groups shouldn't be there? It would appear that there becomes an over-dependence of all groups, associations, organizations or whatever label you want to put on them for their existence on government funding, usually in high percentages of their total funding or for all of their funding.

I do not know the workings of this one.

I must say with regard to the Attorney General's transfer payments that his ministry happens to be the smallest one of any which has transfer payments. They are smallest amounts and the fewest. In the case of some of our ministries, there isn't an organization that doesn't owe its existence to funding from the provincial government. There are weird and wonderful names for some of the associations.

I would hope that some of our colleagues in the ministries would review them in the hope when we are in the restraint program of letting loose the umbilical cords of some of these organizations and saying: "Make it on your own. Either do that or your organization has no existence apart from its members." Indeed many associations similar to the law societies are associations of professional groups. I give credit again and pat the lawyers on the back, though someone might say they are the richest of all and don't need any government assistance, because their associations, but for this one, are run out of membership contributions. Some of the other ones do not. I compliment the Attorney General on that. I reiterate that I would hope some of his colleagues might pay closer attention to these groups and these transfer payments.

**Hon. Mr. McMurtry:** I can ask Mr. Simon Chester, special counsel to the Deputy Attorney General, who is our representative on the Canadian Law Information Council, which is made up, I should say, of all the provinces, and all the provinces contribute to what I think is a very important service. Perhaps he could be more specific.

**Mr. Chester:** If I could just respond to Mr. Taylor, the Canadian Law Information Council was established in 1973 as a joint venture of both levels of government, all the provincial law societies, the law schools across the country and the law libraries. Its general aim is to promote knowledge of the law in the general public and to increase the availability of legal information to the profession as a whole.

It has an annual budget currently of around \$600,000. That is made up of contributions from the federal government in the amount of \$300,000 and from the province of Ontario of \$107,400. It receives a grant from the Ontario Law Foundation and from various other law societies and provincial authorities.

If I can speak directly about the benefit to Ontario, there are about three projects it has been engaged in recently which will be of direct and immediate benefit to both the citizens of this province and to the profes-



sion. It is engaged in the production of a computerized legal information base and it is currently developing law research centres across the country to which members of the public or the profession could go with questions on legal research.

I was told yesterday that of 10 centres that will be established within the next 12 months, three will be in Ontario. Secondly, producing a totally new form of indexes for provincial statutes we have had discussions with them about the production of the Revised Statutes of Ontario 1980 and we are hopeful that they will work with the legislative counsels' office in the production of a totally new statute index.

**Mrs. Campbell:** That needs to be updated at the rate that we are grinding it out.

**Mr. Chester:** Lastly, they have been very closely concerned with the question of legal languages, the interface between French and English in legal literature. This is an area that we are becoming increasingly interested in with the translation of a selected body of statutes from the English language into the French language. We are hoping to work very closely with them on that. Do you have any other specific questions about it?

**Mr. G. Taylor:** There was, let's call it a private operation that was seeking to computerize law. Is there any relationship between that and the program they embarked on and this particular one?

**Mr. Chester:** No. I think the law information council has taken advantage of the start that was made by the Quic-Law experiment in Kingston but I should emphasize that the law information council is a charitable body devoted solely to the non-profit promotion of legal information in Canada. Quic-Law was a private company that was selling a product in the marketplace.

**Mr. G. Taylor:** And is no longer there?

**Mr. Chester:** It is there but not in the same capacity as it once was, nor with the same ambitions it once had. It was recognized by both the profession, the legal publishers and by government that this was a matter that was so large it had to be tackled in a concerted fashion with co-operation among law publishers, governments and law societies. That's the way it is now being done through the Canadian Law Information Council.

**Mr. Lawlor:** There is one other thing having to do with the law foundation. Is there an explanation as to why the amount of money received by the legal aid plan in

1975-76 was close to \$5 million and dropped to \$3 million in the 1977-78 year? Why that great difference?

**Hon. Mr. McMurtry:** There's less and less money in lawyers' trust accounts.

**Mrs. Campbell:** That has sinister overtones.

**Hon. Mr. McMurtry:** It has something to do with the economy, unfortunately. I was just told that the main discrepancy has resulted because we are dealing in one case with a 12-month period and in the other with an 18-month period.

**Mr. Lawlor:** That can count.

**Hon. Mr. McMurtry:** That's a principal discrepancy. We are concerned because of the fact that there is less commercial activity and therefore lesser amounts in the lawyers' trust accounts. Some of the major lawyers' clients have become a little more sophisticated in this area and they are directing the law firms to place their specific trust funds not in the firms' trust account but in a special interest-bearing account.

**Mr. Lawlor:** Just one other thing: Can anyone tell me what the \$24,600 given by the law foundation to the John Howard Society represents? Secondly, the Abel committee on the new constitution?

**Hon. Mr. McMurtry:** No, I can't tell you, other than that under the legislation the law foundation is made up of three representatives appointed by the Law Society of Upper Canada and two representatives appointed by the Attorney General. They have a statutorily-imposed responsibility and various groups appear before them asking for grants that are related generally to legal education. Their mandate is contained in the legislation.

In relation to constitutional reform my best guess again is that this Abel committee persuaded the law foundation that in view of the fact that we were in the process of constitutional reform in this country they were a project worth funding. The work of the John Howard Society is well known to the members of the committee, but I can't assist you at this moment as to what that specific grant of \$24,000 was related. If you would like that information I could obtain it for you.

**Mr. Lawlor:** I'd like to have that. Are you the beneficiary of whatever the Abel committee comes up with?

**Hon. Mr. McMurtry:** I assume the public is the beneficiary of it. As a member of the public with specific responsibilities in relation to constitutional reform, we'll be the beneficiary, but only to that extent.

**Mr. Leal:** I am not at all sure that there will be a report by that committee due to the untimely death of the late Professor Abel. There is some question about whether the bits and pieces could be picked up following his death. I haven't heard anything recently to indicate that one ought to be too sanguine about a report coming out. It was a group of professional law teachers whose chief areas of interest were constitutional law and constitutional history. Therefore, they felt they ought to be making some contribution to the current discussions with regard to the proposed amendments to the Canadian constitution. Perhaps someone else could answer this, but I haven't had any recent evidence that would lead one to be sanguine about there being a report.

**Hon. Mr. McMurtry:** While we are talking about the law foundation I might share with the members of the committee a project I have attempted to initiate with the law foundation, in order to have the benefit of your comments. The project is related to the fact there is a lamentable dearth of history related to jurists and counsel and many of the other activities related to the administration of justice in this province. The Law Society Gazette is a very interesting publication and is providing something in that area. When there are so many people, very famous jurists and lawyers, who have gone to their great reward without ever taking the time to record matters that may be of interest not only to future generations of the profession but also to the public generally, there should be some initiative in this area. So I approached the law society over the summer with the proposal that there be some foundation established and hopefully funded, at least to some extent, through the law foundation, whereby these various histories, to use it in the broadest term, might be commenced.

As an illustration, I think of the number of very senior members of the profession who have contributed a great deal to the life of the province as well as the profession, and it would be a great loss to the province if there wasn't some greater effort made to creating a history. This might take the form of anything from a serious academic work to something of a more anecdotal nature.

I enlisted the efforts of the historian at York University and he is working with the law society to develop this proposal, which I might say thus far has been received with some enthusiasm by the law society. I will report to the justice critics on the progress

of this program, which I hope will be of some interest to you.

[12:00]

**Mr. Lawlor:** That's very good. This is kind of a family matter with you, isn't it? Therefore one would sympathize and understand and I agree. When I was a law student I remember there was a lawyer around whom I don't hear very much about—an Arthur Slaght. You may have known him.

**Hon. Mr. McMurtry:** There was a firm at one time in Toronto called Slaght, McMurtry, Ganong and Keith.

**Mr. Lawlor:** Oh, I didn't know he was connected with McMurtry. He had a splendid reputation, I think of John Cartwright and Phelan and any number of others.

**Mrs. Campbell:** Bell from Hamilton, who wrote Parlour, Bedroom and Bath. I find that young students have never heard of either that or him.

**Mr. Lawlor:** There are quite a few delightful personalities around—many of them dead, et cetera—whose immortal moments are not immortal.

**Mrs. Campbell:** The Women's Law Association has very good archival material. You might call on them because notwithstanding the profession as a whole there were some interesting people in that organization in its early day.

**Mr. Leal:** Clara Brett Martin.

**Mrs. Campbell:** I'm thinking of Margaret Hyndman and all her firsts and accomplishments—very important. The difficulty is I find myself at this stage being asked if I were the first woman lawyer in the province. I like to say, "No, Clara Brett Martin preceded me."

Item 1 agreed to.

**Mrs. Campbell:** Mr. Chairman, since I have to leave I would like to ask the Attorney General if he has an answer to my question with reference to the Slomka matter in Hamilton at this point? I raised it in the other—

**Hon. Mr. McMurtry:** Yes, we will have the answer prior to the end of the estimates. We've requested the answer from our director of crown attorneys. I have not yet received a response. I gather transcripts of proceedings have been ordered immediately following your question and the matter is in hand.

**Mr. Acting Chairman:** Mrs. Campbell, before you leave are there any questions on items two through six?

**Mrs. Campbell:** Yes, I have questions on the research vote—analysis, research and planning—and its relationship to the previous research in the previous vote.

**Mr. Acting Chairman:** We can hold that vote until tomorrow. What about 1303?

**Mrs. Campbell:** I have nothing further to hold up on this. I apologize for this but I haven't found a way to be in two places at one time yet.

**Mr. Acting Chairman:** We gave you an undertaking in this regard and we'll abide by it.

**Mrs. Campbell:** Thank you.

On item 2, financial services:

**Mr. Acting Chairman:** I believe the Deputy Attorney General, Dr. Leal, had a response to an earlier question put by Mr. Lawlor.

**Mr. Leal:** Thank you, Mr. Chairman. Yes, Mr. Lawlor's question was related to compassionate allowances. That is an item occurring under transfer payments in the chart dealing with 1302, item 2. The actual expenditure on it for the fiscal year 1977-78 was \$3,840 rounded to \$3,008 in the accounts. As in the previous year the estimate is put in at \$8,000.

**Mr. Lawlor:** Might it be possible hypothetically that someone outside the regular court structure such as a small claims court clerk would be eligible in this context?

**Mr. Leal:** Mr. Chairman, I am not quite sure how the regulation reads, but I certainly will take that under consideration to see if such a person might be included. I do notice in the detail of the people who have received this allowance that we get such things as \$1,440 to a former provincial court judge, a former clerical assistant of a small claims court, a former registrar of deeds.

I thank Mr. Lawlor for his question, and we will have a look and see if the regulation can be extended to cover that type of situation.

**Mr. Lawlor:** Just one other question here: In the previous year you had taken on additional unclassified staff to establish a forms management program. What is the score on that? Has that been done? Where does it stand?

**Mr. Leal:** I am informed by my colleague, Mr. Carter, the general manager, that yes that was done.

**Mr. Lawlor:** I could ask of course what a forms management program is, but I don't dare.

**Mr. Leal:** It is essentially rationalization and making uniform forms throughout the system.

**Mr. Lawlor:** Throughout the whole internal administrative system?

**Mr. Leal:** The courts system.

**Mr. Lawlor:** Oh, the courts system itself?

**Mr. Leal:** Yes.

**Mr. Lawlor:** This is the vote in which unpaid fines are. You sure lose a lot of money on this one. I suppose it is because people have left the province, or changed their name. The previous year—two years ago—you lost \$3 million. You wiped it off; you took it off the books—\$3.1 million. For 1977-78, \$2.8 million. It is a fair sum of money. What are the explanations for that?

**Hon. Mr. McMurtry:** I think the principal explanation is the difficulty and expense of tracking people down; the problem of police resources in executing warrants of committal. Regrettably at any given time there are a large number of warrants of committal that aren't executed. The police simply don't have the resources.

We believe that the answer to this lies to a great extent in the plate-to-owner proposal which we are working on with the Minister of Transportation and Communications. This is also related to our Provincial Agencies Act. We hope that when there is a plate-to-owner program, with the necessary computer resources, these uncollected fines will be reduced very dramatically.

**Mr. Lawlor:** And do you think that with your extra—as I put it—arsenal of weapons, under your Provincial Offences Act, that you will cut into that figure?

**Hon. Mr. McMurtry:** We hope so; yes.

**Mr. Leal:** I am also informed, Mr. Chairman, that the bulk of that item—unpaid fines which are deleted from the books—arise from fines which are levied against residents who are out of province—the fine is then uncollectable by us, or uncollected; fines against persons who have since died; and finally where the warrants have been defective. That last one disturbs me. I'll have to check into that.

**Mr. Lawlor:** In what way would it be found to be defective?

**Mr. Leal:** Apparently for some reason, either because of the wrong address or the wrong amount or something, it has proven to be not collectable. I'll check that one.

Item 2 agreed to.

On item 3, personnel services:

**Mr. Lawlor:** The only thing under this that I would make mention of is the summer



students employment and the utilization of students generally. Perhaps we should have some comment on that.

**Hon. Mr. McMurtry:** I personally have been a strong supporter of the summer student program for, I think pretty obvious reasons. I don't know what you specifically want me to address my attention to.

**Mr. Lawlor:** Let me put it this way. In 1977-78 the summer students were 338. Would the figure be the same or increased or what would the score be in the current fiscal year?

**Hon. Mr. McMurtry:** It wouldn't have been decreased. I would have hoped it would be increased a little bit because certainly the policy of the government generally was to increase the summer student employment across the government.

**Mr. Lawlor:** I would hope that your hope is justified, but are there any figures?

**Mr. Leal:** It is called Experience '78, which is the summer student program for the summer of 1978. There was a slight increase. I haven't exactly the magnitude of the increase, but we will get that for you.

**Mr. Lawlor:** Anyway there hasn't been a decrease.

**Mr. Leal:** That is so.

Item 3 agreed to.

**Mr. Acting Chairman:** I am going to stand down item 4.

**Mr. Lawlor:** May I just ask one question on item 4 and keep it open?

**Mr. Acting Chairman:** Certainly, Mr. Lawlor.

On item 4, analysis, research and planning:

**Mr. Lawlor:** In your explanation of the \$34,000 you say, "A shortfall on salary due to increase of one position." Is this position a \$34,000-position?

**Mr. Leal:** The answer is that \$25,000 of that \$34,000 was the salary of a person who was transferred into this branch who previously had been in the financial administration branch. The remaining \$9,000-odd was additional moneys for unclassified staff, that is, casual employees, overtime, et cetera—not complement. That is where it comes from, \$25,000 plus \$9,000. It was not the salary of one individual only.

[12:15]

**Mr. Lawlor:** I have a second question, I see, on this one. I refer you to page 23 of your activity brief, describing your program of operations. I guess the best thing to do is to refer to the text:

"The main emphasis will be on maintaining and refining and, where practicable, expanding a results-oriented management reporting system. This system, developed . . . over the past few years, combines two separate information flows, one on work load, the other on resource levels."

Then it goes on:

"Its purpose is to facilitate and make more objective and tangible (a) the assessment of the adequacy of actual operating results in the light of current budgets and (b) substantiation and development of future budgets in terms of resource requirements."

I have written at the edge of the page, "Explain to me." This results thing is so nebulous, it's like a management study, and my faith in management studies of recent date has been severely tested. How's yours?

**Mr. Leal:** Tested. Actually, to be brief and perhaps more helpful, this paragraph is directed towards that principle of government which combines management by results and zero-based budgeting, which dictates and enables one to do an annual review of all programs and to justify their existence on the basis of productivity, whether they are essential, et cetera. What is really being said here is that our analysis, research and planning branch is open for an extensive analysis and re-examination this year on that basis.

**Mr. Lawlor:** Is this a time study type of thing?

**Mr. Leal:** Not really. It involves an analysis of cost-effectiveness; it involves an examination and a study of where one is going in a particular program. In other words, it involves an evaluation of the program itself. This is what we hope to do on this branch of our ministry this year.

**Mr. Lawlor:** May I ask you whether this results-oriented program has produced any tangible results?

**Mr. Leal:** In the government-wide application of it, it is of course dictated by the policies of Management Board of Cabinet; and we're informed by them that the answer to that question is "yes."

**Mr. Lawlor:** Can you point to any specific area within your own estimates where this has been operative? And, by "tangible results," I suppose we mean dollars.

**Mr. Leal:** That's right.

**Mr. Lawlor:** Has any program been reassessed and either increased or reduced as a result of these studies?

**Mr. Leal:** Again, I'm prompted to reply to that in terms which indicate something

of that nature occurred with regard to the office of the public trustee, for example. In the rationalization and review of their account-keeping system, for example, we have instituted a computerized accounting system which will mean substantial number of dollars saved on an annual basis; and that's what it's all about. If you like, it's rationalizing the process and improving it—making it more cost-effective. What one used to call time and motion studies may not loom large in that, but you may get some of that.

**Mr. Lawlor:** With respect, Mr. Deputy Attorney General, are you telling me that because you introduce some computerization into the public trustee's office—which would not be exactly catastrophic—this is an instance of the efficacy of this particular vote?

**Mr. Leal:** Yes, I think that's right.

**Mr. Lawlor:** They wouldn't have known otherwise?

**Mr. Leal:** A rose by any other name, and I don't care whether you call it management by results or just common sense in management, and I think that's really another word for that.

**Mr. Lawlor:** Common sense doesn't have to be paid for, it's a gratuitous commodity.

**Mr. Acting Chairman:** I won't call a vote on item 4.

On item 5, audit services:

**Mr. Lawlor:** Just with respect to defaulted fines, I take it it's the same individuals. We mentioned the fine situation in an earlier vote and I see that it recurs in this area under audit services.

**Mr. Leal:** Yes, this is the administrative part of it. This is the management of the defaulted fines system, which comes in under the audit services vote.

**Mr. Lawlor:** Last year you gave us dollar figures. Talking about total suspensions, last year it was \$7 million and reinstatements were \$4,500,000. You just give the numerical figures here. Is there a reason for that?

**Mr. Leal:** Not to my knowledge. We can get those figures for you, Mr. Lawlor.

**Mr. Lawlor:** Yes, I suppose for future purposes it might be of some value, so I would ask you to do that.

Item 5 agreed to.

On item 6, systems development:

**Mr. Lawlor:** I remember once upon a time I had a question about item 6. Do you remember what that was? No, I have a note here somewhere. It had to do with management information systems, criminal and civil,

and I was asking whether they had been completed. You were working through the counties, I believe, and you were going to bring me up to date on that.

**Mr. Leal:** Mr. Lawlor, I have with me Mrs. Mueller, who has recently been appointed the director of the systems development branch of the ministry. Mrs. Mueller came to us from the Ministry of Government Services and was a member of that central systems group. I have before me a number of projects for the fiscal year 1977-78.

**Mr. Acting Chairman:** Before you respond, Mrs. Mueller, could you take the microphone and state your full name and position?

**Mrs. Mueller:** Doreen Mueller, director of information and computer systems branch.

**Mr. Leal:** Perhaps, Mr. Lawlor, we could let you have a copy of this, which explains the projects for 1977-78, going through the activity of the branch and indicating what was done in the year, what was ongoing. For example, item three on page one, the criminal divisional court office, an ongoing project dealing with administrative procedures to revise the procedures to improve the effective use of limited resources, both our human and our machine resources.

**Mr. Lawlor:** I'm sorry, will you just pause there? Would this be confined to the provincial criminal courts?

**Mr. Leal:** Yes, And on page 2 are the jury roll production system which is ongoing and the French-language courts services, number seven, which is also ongoing. Number eight is the revenue study which is completed except for final draft of our report, and there is the accounts receivable study. Number 10 is a write-off of accounts receivable items at the old city hall.

**Mr. Lawlor:** I'm sorry, let's pause at number eight, the revenue study. That is a study of methods to set fees and fines for various operating programs. Are those fees and fines set on a total compensation basis as to what the actual cost is of providing the service?

**Mr. Leal:** Some of them are.

**Mr. Lawlor:** Sometimes I wonder how deep we should go, but I won't try that this time. In other words, when we see which ones are and which ones aren't, we might have an explanation.

**Mr. Leal:** Yes, we might have a breakdown on that. It is part of the total review which we are making in the ministry with regard to user-pay, which seems to be a principle across the government generally of setting fees at a rate which will com-

pensate for the cost of producing the program. Of course, that can't apply to things like OHIP and that sort of thing. But in registration office practices and that sort of thing it can. It is of very much greater concern to us now in this period of financial constraint.

**Mr. Lawlor:** That is what I am thinking. On number 10, the write-offs of accounts receivable, is that part of that fine picture? I notice Mr. Renwick's infamous word, the one he doesn't like, the word "interface."

**Mr. Leal:** Yes, I see that in number 11.

**Mr. Lawlor:** What are MAI operations?

**Mr. Leal:** I'll ask Mrs. Mueller the same question if I may, Mr. Lawlor.

**Mrs. Mueller:** It is a small mini-computer that we have.

**Mr. Leal:** It is a mini-computer in the finance branch. Rather than tying these to a large computer, I think it is now both economically and administratively feasible to set up small computers in individual locations. I take it this is one of them.

**Mrs. Mueller:** Yes.

**Mr. Leal:** I take it is utilized with respect to our payroll system.

**Mrs. Mueller:** Most of our expenditure items.

**Mr. Lawlor:** I notice under the account of the Supreme Court study of the equipment that a new system was designed and new equipment acquired.

**Mr. Leal:** Again, a small mini-computer was installed there for the purpose of facilitating account keeping, Mr. Lawlor.

**Mr. Lawlor:** What do you do when you acquire a new computer? Is special training given to the individuals in that court office?

**Mr. Leal:** Yes.

**Mrs. Lawlor:** Do you have to hire new staff?

**Mr. Leal:** No, we retool the industry.

**Mr. Lawlor:** These people go out, and IBM or whoever gives a course of three or four weeks or something like that?

**Mr. Leal:** Yes.

[12:30]

**Mr. Lawlor:** I am still working on this enormous brief, Number 20, small claims court study. You are trying to standardize the operations of those courts and I see you have done everything except for final draft of the documentation. When that is completed, might I have a copy of that? I would like to see that.

**Mr. Leal:** Certainly.

**Mr. Lawlor:** Number 22, flow charting of Family Law Reform Act: "The project produced a number of flow charts of the legal process to be used in educational seminars." This is for the court staff. I wouldn't mind taking a look at that. I hate to take you off into the wild blue yonder, but just very briefly, how is that legislation working?

**Mr. Leal:** I think extremely well, Mr. Chairman. We have, as the minister has stated on former occasions, established a monitoring committee and we are following not only the judicial writing, the judgements that are flowing from the courts at all levels with regard to the legislation—

**Mr. Lawlor:** Are the judges following the spirit of the legislation?

**Mr. Leal:** I think in a most commendable way. I think Mr. Justice Galligan, who gave reasons for judgement in the first major case in the Supreme Court, seized the opportunity to write extremely helpful reasons for judgement on the interpretation to be given to the various sections that arose for decision in his particular case against the general purposes, indeed the preamble of the act, to write on a clean slate, as it were, and we are extremely pleased with the general result.

**Mr. Lawlor:** Ah, these Patricks. Thank you very much for this information. It will be very helpful.

**Mr. Leal:** We will get those other two to you.

**Mr. Lawlor:** Just one other question under services: Under the explanation at page 26 there is an item of \$207,000, transferred to salaries, employee benefits, et cetera. Could you explain that a bit for me?

**Mr. Leal:** Yes, it is the result of the two items above, Mr. Lawlor. If you look up under salaries and wages, under "new" you see an item of \$190,800 and underneath it, employee benefits \$16,300, which comes to \$207,100, which is the figure down below. It is just a transfer from services to salaries.

**Mr. Lawlor:** There has been a fairly monumental increase under the salaries from \$206,000 to \$485,000. There has been an increase of eight classified positions on staff. Does that figure of \$200,000 account for the added people because of a more elaborate systems development?

**Mr. Leal:** No. The explanation for that, sir, is that when there was sort of a general jail delivery this year with regard to complement, in which the Management Board throughout the government set a date and numbers by which casual employees could be brought into permanent complement, to



tidy up the manpower system, a lot of these people who were on unclassified staff were brought into classified staff.

This is how this is accounted for. That \$207,100 would have been an amount payable to unclassified staff. They are now complement staff and therefore the money is simply moved up to salary. It is the same expenditure of dollars but it's a difference in the classification of people.

**Mr. Lawlor:** You say on page 27, the next page: "Major effort will be directed towards the development of a support system for the administration of the Provincial Offences Act." You've taken money into account in advance of the passing of that legislation.

**Mr. Leal:** We have tried to earmark some funds that could be utilized to upgrade the system end of it, which is required to give us the potential savings of the new legislation. Unfortunately, we're still in trouble on that one, Mr. Lawlor. We're not going to get anything like the amount of money which we need to put the system in to realize the savings. That's regrettable, but that's true.

**Mr. Lawlor:** You nevertheless used with Management Board of Cabinet the very profound and persuasive argument that the escalation in your fines are going to be so startling that it will pay for itself five times over.

**Mr. Leal:** We've made that ad nauseam. Unfortunately, I can't report to you that it's had any visible result.

**Mr. Lawlor:** Okay.

**Mr. Acting Chairman:** Any further questions on item 6, Mr. Lawlor?

Item 6 agreed to.

**Mr. Acting Chairman:** Shall vote 1302, with the exception of item 4, carry?

**Mr. Leal:** Mr. Lawlor was asking for the dollar amounts which went along with the numbers with respect to defaulted fines. With your permission, Mr. Chairman, I would just pass this over to him so that he may have the same information that he had last year.

**Mr. Acting Chairman:** Thank you, Mr. Deputy Attorney General. We're on vote 1303, guardian and trustee services program, item 1, official guardian.

**Mr. Lawlor:** There has been a certain amount of criticism of the official guardian's office, that a very large proportion of their work is involved in divorce work, particularly defended divorces or where children are involved, and investigations of that nature.

I think some consideration should be given by the Attorney General's ministry at this

time with respect to a bill of rights for children. A child in our society is considered a chattel, and only when the child is abused and arrives at the hospital battered does the law step in. This is a somewhat different area, but we have no legislation whatsoever in federal or provincial jurisdictions that recognizes positively children's rights—rights to education and rights to their physical self-determination, depending upon maturity and things of that kind.

I would ask that some consideration be given in this area by the Attorney General of Ontario. In other words, it would be a fruitful and fecund area of exploration. I don't know whether the Ontario Law Reform Commission is exactly the body to do that kind of thing. I think that some kind of internal study, possibly through the policy division in conjunction with the office of the official guardian, would be very helpful and, it seems to me, would open great pathways into the future.

There are two kinds of people: conservatives, who forever look at the past, but who at least have roots, unlike the Liberals—I wish Margaret were here—and socialists, who always look to the future; they are future-oriented people, roots or no roots.

In the other area, they say that the official guardian's representatives appearing in the courts more or less make up their minds about which side is the more predilected for the child, more beneficial as they see it, et cetera, and approach the matter in the courts on one parental side or the other, again abnegating to a very considerable extent the child himself.

I've heard lawyers speak in this way of the official guardian. I don't think that's deep-rooted. I don't wish to flog the animal. I just think that, having heard this kind of thing, I've got some responsibility as critic to bring it to your attention and ask for a little more surveillance. I don't think on these votes here, since these are fairly independent entities, that we ever really go very deep into the operations involved in these, except from a mechanistic point of view—new computers or something.

As to the humanity involved, that's another question, and that office is critical in this particular area. Do you get many complaints in your department as to the operation of the official guardian's office from any source?

**Mr. Leal:** I have John D. Hilton, QC here.

**Mr. Lawlor:** Are you still Queen's proctor?

**Mr. Leal:** No.

**Mr. Lawlor:** I always ask you that question and you never are.

**Mr. Leal:** He is Assistant Deputy Minister in the Ministry of the Attorney General. One of his primary responsibilities is the general supervision of the office of the official guardian. I will turn to him in a moment, if I may, Mr. Chairman. But to answer Mr. Lawlor's question, no, I am not aware of any flow of criticism into the ministry concerning the work of the official guardian.

One aspect of the work of that office, which is looming more large by the day, is this whole question of separate legal representation of children. Even under the present law, there has been an increasingly substantial number of cases which have been referred to the attention of the official guardian with regard to separate representation of children in custody and access cases before the courts. He is called in to intervene to give legal counsel to children who are caught up in this dreadful business of the divorce of their parents, and who become rather forgotten gnomes in the process. The official guardian under section 106 of the Judicature Act is being directed and invited by the courts to give separate legal counsel in that type of case.

In addition to that, there is the very serious and very important question of separate legal representation of children in cases under what is now part II of the Child Welfare Act, the so-called protection cases. I know it is the view of the Attorney General—and perhaps he will wish to enlarge on that—that the office of the official guardian should become an integral part of the operation by which separate legal representation for children in the child protection cases is to be given. I would ask the Attorney General if he has anything to add to that.

[12:45]

**Hon. Mr. McMurtry:** No, other than to indicate to the chairman that I am strongly of the view that in relation to our ultimate accountability to the public as a whole and in relation to the quality of the legal services that are being provided for children through public funds, I believe this necessitates the involvement of the ministry in some meaningful capacity and that involvement in my view can be best achieved through the office of the official guardian which, of course, has a great deal of experience to offer in these matters.

We're concerned about the quality of legal services in every area of the law, obviously, and the Attorney General does have some overall responsibility to the public in that respect. This concern in relation to children must be that much more intense,

and that is why we are concerned about having some supervisory role in relation to these services.

**Mr. Lawlor:** How far have you got in conferring separate legal representation—I mean in the full sense of that word “separate”?

**Hon. Mr. McMurtry:** I guess one of the important steps was the amendment of the Child Welfare Act, which for the first time gave a provincial court judge the authority to appoint a lawyer, or to direct that a child be given separate legal representation in proceedings under the Child Welfare Act.

This, as you know, is being done by Supreme Court judges—and I'm sure this has been touched upon in custody actions for the past several years—with the encouragement of this ministry, and in that respect the official guardian has played an important role, because this separate representation when directed by a Supreme Court judge in a custody matter is invariably provided through the official guardian's office.

**Mr. Lawlor:** You say invariably. It's never referred out through legal aid, with respect to this?

**Hon. Mr. McMurtry:** It may be funded through legal aid, but normally the official guardian, to the best of my knowledge, is responsible for providing the legal representation, and it's not a question of somebody else picking a lawyer off the legal aid panel.

**Mr. Lawlor:** I thought it might on occasion be an independent member of the bar.

**Hon. Mr. McMurtry:** Oh, yes. There are agents of the official guardian in practice throughout the province. For example, in Sudbury there is a committee involving the local family court judge, the local director of legal aid and other people in private practice in the community who recommend counsel in this type of case. I want to make it clear that it is not our intention to have child representation in these matters necessarily provided by people who are full-time in the government service.

This will involve the utilization of the private bar to a large extent, but we're just particularly concerned in this area that individuals who are providing these services from the bar have the appropriate expertise. I have expressed my concern in relation to the qualification of lawyers acting in criminal cases, and this is an ongoing concern, and this matter has been the subject of some controversy because of talk of a public defender component. But obviously when you are talking about child representation, the

concern in this regard must be particularly high.

**Mr. Lawlor:** I would just make mention that while you were out of the room I was proposing that some study be made with respect to a bill of rights for children. It's fallow ground.

**Hon. Mr. McMurtry:** I think you have to make a distinction between a bill of rights for children who are in institutions or out of the home, as opposed to children who are still within the family. Obviously the Child Welfare Act is a form of a bill of rights for children.

We don't have a bill of rights, so called, in Ontario and yet we have innumerable statutes that provide very essential rights. So, fine—I just wonder what does a bill of rights mean, when you have a number of statutes that provide substantive rights to individuals? Whether there is any magic in trying to lump everything under one statute and calling it a bill of rights, I don't know. It certainly has some superficial appeal. I suppose I address the issue in this particular manner because when people say we need a bill of rights for children there is the inference that children don't have rights at present, which I find difficult to accept.

**Mr. Lawlor:** I won't repeat all I said when you were out of the room. I think they are largely negative. I think the child is basically regarded in our law as a chattel, as women have been until fairly recently. It's the same thing.

One area that occurs to me is the area of education. When a child is deprived of his education through parental neglect or for any other reason, a child should have a positive and assertive right with somebody representing him in this area, to be properly educated and to have an equal position with others in the society. That kind of thing is what I have in the back of my mind.

**Hon. Mr. McMurtry:** I think those rights exist now; the difficulty is with how they're asserted.

**Mr. Leal:** Mr. Chairman, perhaps I could add this—I'm prompted to do so by my colleague, Mr. Hilton. I was in the policy field of Community and Social Services discussing the new children's services package now going through the Legislature. That very point Mr. Lawlor refers to, the question of a bill of rights type of provision with regard to the education of children, came up. The matter was not resolved because there was a good deal of ups and downs on both sides of it.

Yes, every child has a guaranteed right under the law to an education until age 16. Then people began to trot out the thought: what if you have a child who really is incapable of performing at a level which would justify carrying him in an educational system, and so on. I don't say that in any attempt to try to answer Mr. Lawlor's intervention, but just to indicate to him the matter is being canvassed elsewhere.

**Mr. Lawlor:** That's helpful. All I am beseeching is that it be canvassed a little right here within your department, particularly in conjunction with this vote.

I'm going to suggest, Mr. Chairman, on item 1 that you leave it open. The Liberal critic very well might have something on it.

**Mr. Acting Chairman:** Mrs. Campbell indicated that she had no comments under this vote.

**Mr. Lawlor:** All right. It's carried as far as I'm concerned.

Item 1 agreed to.

On item 2, public trustee:

**Mr. Lawlor:** The public trustee's monetary position has altered quite gravely. In the 1975-76 year, the actual expenditure was \$2,352,000. It is now on the estimates of \$3,385,000. It has gone up in that very brief period of time by \$1 million. May I have an accounting for that?

**Mr. Leal:** I think the increase represents an increase in activity in the public trustee's office, and the very substantial increase in estates under administration.

**Mr. Acting Chairman:** I think the amount of the increase is about \$400,000 is it not, Mr. Lawlor? Not \$1 million.

**Mr. Lawlor:** If I may, in terms of assets, it has gone from \$157 million to \$169 million, which I don't consider monumental.

**Mr. Leal:** It would appear not to have justified that increase, I quite agree.

**Mr. Lawlor:** The number of estates he handled in the previous year was 25,800; and it went down the next year to 25,300. Charities have gone up a bit. There is less charity but more charities.

**Mr. Acting Chairman:** The one thing, Mr. Lawlor, that all good causes have in common is that they lack money.

**Mr. Lawlor:** This despite the fact that on page 29 there is a \$200,000 constraint element in here. My next question was as to how that arose. But I suppose I had better stick to the first one for the moment.

**Mr. Leal:** I do notice, in replying to Mr. Lawlor's former question, that the increase



for the current estimates now before this committee as compared with a year ago is an increase of \$144,400.

**Mr. Lawlor:** I drove you back a previous year. I did that deliberately.

**Mr. Leal:** In doing so he got me off the chart. I am not quite sure I can answer the question, but I can certainly undertake to try to get the answer.

**Mr. Lawlor:** I'd like a breakdown of what I consider a \$1 million difference. It is a very large sum of money. I don't suppose you can explain the recondite reasonings of the Management Board, or of anybody else. They have left the official guardian alone, and they moved in on the public trustee.

**Mr. Leal:** Yes. In terms of constraints, because as a business proposition the public trustee's office is much better than the official guardian's office—the revenues from the public trustee's office are substantial; they are not from the official guardian's office. That is why in applying the ministry constraints we have a figure, as you point out, of \$200,000 against the public trustee's office, and not against the OG.

But I would like to understand the precise nature of Mr. Lawlor's question to which I am trying to get an answer.

**Mr. Lawlor:** You must have been the dean of a law school to give such devious reasoning; and it is facile and fraudulent. It has nothing to do with the revenues.

**Mr. Leal:** It does on the question of how he could bear the burden.

**Mr. Lawlor:** They don't use their own money.

**Hon. Mr. McMurtry:** I hope when words like "fraudulent" are used the Hansard reporter will have in a bracket, "laughter."

[1:00]

**Mr. Lawlor:** It will now.

**Mr. Chairman:** We are about to adjourn, Mr. Lawlor. Do you have many more questions on this item or can we carry it?

**Mr. Lawlor:** Let me see. Can't carry it.

**Mr. Chairman:** Can't?

**Mr. Lawlor:** No.

**Mr. Chairman:** Very well. This committee stands adjourned until after question period tomorrow.

The committee adjourned at 1:01 p.m.

# CONTENTS

Wednesday, November 8, 1978

<b>Law officer of the Crown program</b> .....	J-387
Royal commissions .....	J-387
<b>Administrative services program</b> .....	J-387
Main office .....	J-387
Financial services .....	J-399
Personnel services .....	J-399
Analysis, research and planning .....	J-400
Audit services .....	J-401
Systems development .....	J-401
<b>Guardian and trustee services program</b> .....	J-403
Official guardian .....	J-403
Public trustee .....	J-405
<b>Adjournment</b> .....	J-406

# SPEAKERS IN THIS ISSUE

Campbell, M. (St. George L)  
 Handleman, S. B. (Carleton PC)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P. (Humber PC)  
 McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)  
 Philip, E.; Chairman (Etobicoke NDP)  
 Taylor, G. (Simcoe Centre PC)  
 Ziembra, E.; Acting Chairman (High Park-Swansea NDP)

**From the Ministry of the Attorney General:**  
 Chester, S., Special Counsel to the Deputy Attorney General  
 Leal, H. A., Deputy Attorney General  
 Mueller, D., Director, Information and Computer Systems Branch







# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Administration of Justice Committee

Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Friday, November 10, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

FRIDAY, NOVEMBER 10, 1978

The committee met at 11:43 a.m.

After other business:

[11:52]

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

**Mr. Chairman:** We are proceeding today with the answer to Mrs. Campbell's question. Then we will return to vote 1302, item 4, analysis, research and planning, which Mrs. Campbell had asked that we stand down because she had to be absent.

**Mr. Lawlor:** How much time do we have left here?

**Mr. Chairman:** We have six hours and 27 minutes.

**Mr. Leal:** Mr. Chairman, the member for St. George directed a question respecting the professional verbatim reporters who are in the employ of the special examiners' offices in Toronto. There are, as the honourable member knows, four special examiners' offices in Toronto. One of them, I think, is of no concern either to them or to us: that is Mr. McHugh's office. The other three have been a matter of great concern. They are the offices of Mr. Rosenberger, Mr. Devenport and Mr. Pond.

My colleagues in the ministry and I have met with the Professional Verbatim Reporters' Association on at least three occasions, and I have an appointment to meet with them again on Tuesday of next week. We have also met with the special examiners. We have had at least two joint meetings with the reporters and the special examiners and their counsel.

I have reviewed all the correspondence that I have in my file, more particularly correspondence from Mr. Bruce Thomas, who is counsel for Mr. Devenport, Mr. Bruce Savage, who is counsel for Mr. Paul Rosenberger, and the correspondence of Mr. Moishe Reiter, who is counsel for the Professional Verbatim Shorthand Reporters' Association. I believe the honourable member's question was that the special examiners had been requested to return to their employ the reporters who had left or had been locked out,

whatever that phrase might be, as of August 14, 1978.

I regret to inform the honourable member that this matter hasn't moved to the extent I would have hoped. These people have not all been taken back. Some of them have, but there are about 75 per cent in Mr. Devenport's office, if I read the correspondence right, who have not been taken back yet, and I suppose something a little less than that in Mr. Rosenberger's office.

Mr. Pond's operation is a matter that has to be dealt with in different terms. It's very, very small. In any event, it doesn't loom large in the total problem. But there are other complicating factors which are of a personal nature, between Mr. Pond and his employees, which are no business of the Ministry of the Attorney General because they involve contracts between them and payments or non-payments. It's not my affair. But in the case of the two large operations, the request to have these people taken back has not turned out as well as I had hoped, or Mr. Devenport and Mr. Rosenberger had hoped, but there are reasons for that.

The main reason, of course, is that when this unhappiness arose, the special examiners made arrangements for the installation of electronic tape recording devices and a monitoring system to record evidence instead of using shorthand or stenomask reporting. I have in my file before me, Mr. Chairman, a lease that was entered into by Mr. Devenport's management company on his behalf. It is a non-cancellable lease for this equipment for a period of 66 months, with a total of 66 monthly payments. I need not deal with the monetary amounts except to say it's a handsome figure. It's approaching \$75,000. I have not studied the lease in the necessary amount of detail to be able to satisfy myself that there's any way in which that lease can be cancelled without monetary disadvantage to the lessee, Mr. Devenport. He is in the position now of having committed himself to this amount of money for 66 months and he just doesn't have, therefore, the ability to take these people back to do the job they were doing.

Mr. Thomas has asked me to give him a contract of indemnity from the ministry in-



dicating we will pay for any damages that might flow to Mr. Devenport as a result of his cancelling the lease. I have replied to him by letter saying, of course, that I'm in no position to do that. I was rather surprised that he asked me, but in any event the answer was clear enough.

**Mrs. Campbell:** It never hurts to try.

**Mr. Leal:** Well, I suppose. As far as Mr. Rosenberger is concerned, his operation also has the monitoring problem. I haven't seen the lease but I do have a very long letter from his solicitor, his counsel. The monitoring problem is there, but also there are some reporters as a result of whose work, he says, he won't take back in any event. So there are some complicating factors.

[12:00]

I'm sorry to be this long, but I wanted to give this answer at some length to assure the honourable member that we have indeed tried to play the role of an honest broker in this dispute, which was essentially between the special examiners and their reporters. Of course, the ministry has a stake in it because they're performing an exercise which is important for the administration of justice. That's why we're into it.

May I close on this note: we will continue to make every effort to resolve this. In the meantime, of course, Mr. Mendel Green has been appointed by the Attorney General as a special consultant to look into all aspects of the special examiner's office in the judicial district of York and to make a report to the Attorney General by the end of this calendar year. I think that although we may be able to resolve some of the difficulties and help, I think the chief recommendations and action must await Mr. Green's report.

**Mrs. Campbell:** Mr. Chairman, my information is somewhat different from the Deputy Attorney General's and it may be that mine is inaccurate, but my information was that Mr. Devenport did take back some—and I can't recall, I didn't bring it with me, I'm sorry to say—some seven out of 20, but that Mr. Rosenberger had not taken any back, and Mr. Pond was undecided. That was the latest information I had, and if that is inaccurate it certainly is inaccurate on the basis of what the deputy has said.

**Mr. Leal:** The figure I remember in the correspondence is that Mr. Devenport was taking back an additional three to the number he had already taken back, which may mean the result is seven, I don't know, but that Mr. Rosenberger wasn't—and so on.

**Mrs. Campbell:** Oh, I'm sorry.

**Mr. Leal:** I don't think we're far apart.

**Mrs. Campbell:** I just thought you said that Mr. Rosenberger had taken back somewhat more in proportion than Mr. Devenport had, and that was not my information.

**Mr. Leal:** No, I didn't mean to convey that.

**Mrs. Campbell:** I see, thank you.

**Mr. Lawlor:** I have just one question arising out of this. Did Mr. Devenport or any of the others consult with staff before introducing the technological change?

**Mr. Leal:** I think the answer to that is no, but the technological change was not what prompted the dispute. The dispute was over contractual arrangements, not involving the technology, going back to August. The monitoring system was introduced after the reporters left, so it wasn't the technology that precipitated the dispute. The technology now hinders its resolution. I think that's a fair statement.

I notice, Mr. Chairman, we have members of the Professional Verbatim Reporters' Association this morning, including their president, Mr. Bauer, and I'm sure he'll speak to me if there's anything here that I've distorted.

**Mr. Chairman:** Do you have any distortions to report this afternoon?

**Mrs. Campbell:** Come to the mike, will you?

**Mr. MacBeth:** You are recorded for posterity.

**Mr. Leal:** Just for the record, Mr. Bauer is the president of the Professional Verbatim Reporters' Association—of Ontario or Metro Toronto, I'm not sure.

**Mr. Bauer:** Just association.

**Mr. Leal:** Just association, period.

**Mr. MacBeth:** Worldwide.

**Mr. Bauer:** You are correct inasmuch as Mr. Devenport did offer to take back three people, but as yet none of the reporters has gone back. What they wanted to do was take them back as monitor operators, regardless of the number of years of training or experience. They were to drop their shorthand or any other method and simply become a machine. That was the basis, and we're trying to arrange something where we could get back in our profession—what we were trained as.

Since our last meeting, Mr. Rosenberger has not taken back any reporters, if that will clear the point.

**Mrs. Campbell:** And Mr. Pond?

**Mr. Bauer:** Mr. Pond, as far as I know, has not taken back any.

**Mr. Chairman:** Mr. Lawlor, any questions?

**Mr. Lawlor:** No.

**Mr. Chairman:** Fine. Thank you. Any further comments on that issue, Mrs. Campbell?

**Mrs. Campbell:** I think the issue speaks for itself. Perhaps it would incline me to ask the Attorney General to look further into the operation of special examiners, as we discussed at the time, as to whether or not this kind of function is one which should be directly related to the Attorney General's ministry rather than being a private-enterprise system, if this is the way the matter is going to be handled.

I always have some concerns when human beings are placed in this position, as I'm sure the Attorney General himself has, and I would ask him to look into that aspect of the matter. I'm not very happy to see special examiners, with their special place in our administrative system, in a position to treat the verbatim reporters in this fashion.

**Hon. Mr. McMurtry:** The terms of reference that have been given Mr. Mendel Green are very broad and include all the issues that Mrs. Campbell has raised.

As I think has been demonstrated by what we've heard this morning, the Deputy Attorney General has spent a great deal of time and effort in attempting to act as the honest broker, among other of his responsibilities that are more directly related to the administration of justice as opposed to what might be considered to be a labour-management issue. He has attempted to take a very broad view of the matter in trying to find a solution that's going to be fair to all.

**Mrs. Campbell:** Yes, I would commend the Deputy Attorney General for the work he has done.

Do we know when Mr. Green is apt to be reporting? At this time of the year in particular, it's a pretty awful position for these people to be in.

**Hon. Mr. McMurtry:** We've asked them to report by the end of the calendar year, I believe. We're into November.

**Mrs. Campbell:** I know, I know.

**Mr. Lawlor:** My remarks on this subject are already on the record of a few days ago. I don't think there's anything I can add to them at the moment.

On vote 1302, administrative services; item 4, analysis, research and planning:

**Mrs. Campbell:** I'll be brief. I guess what I'm trying to look at is all the various items which come under analysis, research and planning, and relate them somehow to both this ministry and the Provincial Secretariat

for Justice. We seem to have a considerable sum of money set aside in these areas and, if I may put it this way, I take it that in this area the research is more localized than in the others.

**Hon. Mr. McMurtry:** This in relation to administration and systems analysis, whereas I understand the role of the policy secretariat is purely a policy co-ordinating role. Obviously, as the member for St. George well appreciates, there is an enormous amount of administrative detail involved in the administration of the courts.

**Mrs. Campbell:** Yes. Sometimes we wonder if it gets through.

**Hon. Mr. McMurtry:** This analysis, research and planning is in relation to administering the courts and the other responsibilities of the Ministry of the Attorney General as opposed to policy. I don't think there's anything in this vote with respect to the development of policy in relation to the development of the law, administrative techniques, systems analysis. If I'm mistaken in that—

**Mrs. Campbell:** May I just point out that in vote 1301, item 3, which has been passed, under responsibility we have research and analysis of all aspects of the administration of justice in Ontario. Then we come here and we have sort of the same kind of thing. I'd like to know what all this research and analysis is about. I suppose that is really the question. I don't want to labour it, but—

**Mr. Leal:** I think the short answer, Mr. Chairman, to the member for St. George, is that the item in 1301 dealing with the policy development field of the ministry is the substantive law, research and analysis, and policy formation in terms of legislation, regulation, and all of that.

What we're dealing with under 1302, item 4, Mr. Chairman, is systems research and planning. This includes the Cyclops computer in the city hall which runs the Highway Traffic Act offences project for the whole of this area. It includes our management information system by which the statistics that appear in these reports are available, the amount of cases, the case flow, et cetera.

So item 4 of 1302 is really systems money, both on the research and planning side, and on the information flow side. I have the breakdown for this item if the honourable member wishes it.

**Mr. Lawlor:** The monster is well-named.

**Mrs. Campbell:** Cyclops? Yes. And that is the traffic computer?

**Mr. Leal:** That's right. And all other mini computers that we have, Mr. Chairman, with

regard to payroll management, the total systems activity in the ministry.

**Mrs. Campbell:** Some years ago I had the opportunity of studying, in New York state, the IBM course which was compressed into a couple of days. It was pretty well beyond my capabilities, I have to tell you. But one of the things discussed was the development in the United States, through the traffic computer operation, of a prewarning for police, for example, as to the incident they were facing on a call, particularly on the graveyard shift. I had pressed at Metro for a study of that because it seemed to me that anything we could do to be of assistance by using the computer wisely and efficiently to assist the police in the area would be of importance.

I presume, then, that this could be raised at this time appropriately, since the Cyclops comes under the particular vote, and not the Solicitor General on police. Has anyone looked at that?

**Mr. Leal:** Yes, indeed. But this item does not have anything to do with the matter you are now dealing with. That is under the Solicitor General, tied to the CPIC system of police information services. Cyclops is simply a computer program to facilitate the paper flow and the management and the scheduling of cases for trial in the provincial court.

**Mrs. Campbell:** Oh, so it isn't the traffic computer?

**Mr. Leal:** No.

**Mrs. Campbell:** That's what I wondered. I thought I asked that question.

**Hon. Mr. McMurtry:** I was thinking of the handling of traffic offences.

[12:15]

**Mrs. Campbell:** I'm sorry. Thank you.

**Mr. Chairman:** Further questions on this vote? Shall item 4 carry?

Item 4 agreed to.

Vote 1302 agreed to.

On vote 1303; guardian and trustee services program:

**Mr. Chairman:** We'll now move to the next vote, 1303. I believe the first item on that vote was carried, so we're now on item 2 or 3. Item 2 is the public trustee, under the guardian and trustee services program.

**Mr. Lawlor:** As far as I'm concerned, I've been supplied with information I was requesting with respect to the internal financial operations of the trustee, and I'm content.

**Mrs. Campbell:** The official guardian vote was passed?

**Mr. Chairman:** That's my understanding.

**Mrs. Campbell:** Then I'll leave my comments on that for another year.

**Mr. Lawlor:** I'll try to hold it up for you, Margaret.

**Mr. Chairman:** Go ahead, Mrs. Campbell, if you want to ask a question.

On item 1, official guardian.

**Mrs. Campbell:** All I wanted to do was to inquire as to how Mr. Perry is able to deal with his additional responsibilities in this area. I want to congratulate the Attorney General for his foresight in bringing the changes about. I think philosophically it's a great development. I'm wondering if Mr. Perry is having any problems in this area. He was at one time having quite a case load, and I wondered how it was straightening out.

**Hon. Mr. McMurtry:** I think he will have problems unless we get him additional resources in the next fiscal year. I hope I will be able to persuade my colleagues of that fact. There's no question that with his increasing case load he will need additional resources. If we come back here a year from now without these additional resources, I'll have to tell you that Mr. Perry is having a difficult time discharging his responsibilities.

**Mrs. Campbell:** This is what bothers me. I think everybody in this room has accepted wholeheartedly the philosophy behind this operation. I was so pleased the Attorney General moved in this direction—I've said it in the past—but it always disturbs me a little bit if you get something in place in this way and because of money constraints or something the job can't be done in the way we perceived it should be done. I think the Attorney General is very much a part of that "we." I would certainly say that if the Attorney General requires any assistance from us in trying to prevail upon his cabinet colleagues, I for one would be right there.

**Hon. Mr. McMurtry:** I thought you were going to take up a collection.

**Mrs. Campbell:** No, I don't go that far, and I don't believe in private enterprise to that extent. I just think that it might be useful if the committee could express itself as anxious to see this role effectively administered. That of course is no denigration of Mr. Perry or his operation. But one man is one man is one man. That's what I mean.

I know I can't move a motion because it involves the expenditure of money, but I certainly would like to be on record as encouraging the expansion of this activity for the protection of children in the court system and other systems.



**Hon. Mr. McMurtry:** I appreciate the remarks that were made by the member for St. George and I certainly endorse them.

**Mr. Lawlor:** Mr. Chairman, I have just one question arising out of this matter if the Attorney General can assist me. In the report of the committee on the representation of children in provincial court that came in during the summer, at page 39 it says:

"In this context the procedures and practices that obtain in an adult court in civil and criminal proceedings should not, in our view, be mechanically transposed to proceedings in a provincial court for family. The objective should be to establish rules of practice and procedure whereby a court is best able to achieve a result that is just in all of the circumstances" and they wrestled throughout the report on that.

The 59th recommendation is: "Your committee accordingly recommends the establishment of a series of pilot projects." Could you give me an indication of how you reacted to that?

**Hon. Mr. McMurtry:** Events have probably overtaken that recommendation to some extent in view of, for example, the amendment to the Child Welfare Act giving for the first time the provincial court judges and the family court the authority to recommend the appointment of counsel. So we expect that this type of service will be available to children throughout the province, so we can't wait for pilot projects.

**Mr. Lawlor:** I see.

**Hon. Mr. McMurtry:** I have advised the committee accordingly.

Obviously, there are certain areas where we will be monitoring particularly carefully in order to learn as much as we can from their experience and how we might better provide this type of service as we go down the road. But we had, in view of their recommendation, considered establishing pilot project areas in advance, but in view of the fact that this right is something that must be asserted across the province it really boils down to monitoring simple areas in order to learn as much as possible.

**Mr. Lawlor:** Apart from the monitoring arising out of your answer, the problem in the committee within their time limitations was that they felt unable to devise rules and procedures. Are you giving any guidelines then to family court judges with respect to in which context and situation a child will be given independent representation? Have you done that at all yet?

**Hon. Mr. McMurtry:** I think it was just pointed out that there are guidelines right in section 20.

**Mr. Lawlor:** There are some in the Child Welfare Act, yes.

**Hon. Mr. McMurtry:** And these are new guidelines. And, of course, the family court judges themselves are continuously establishing, for their own assistance, guidelines that might be appropriate but as far as statutory guidelines go—

**Mr. Lawlor:** Or directives.

**Hon. Mr. McMurtry:** Yes, I can't give them a directive. We can provide statutory guidelines and we can encourage guidelines through the system but, of course, any directive must come from the chief judge or the senior judge in the area involved. But we work very closely with the courts in respect to developing policies that will assist the quality of child representation, for example.

**Mr. Leal:** If I may, Mr. Chairman, I might be able to help the member for Lakeshore by pointing out that the guidelines that were contained in the original first reading of the Child Welfare Amendment Act have been amended as a result of the representations made to the Ministry of Community and Social Services by this committee and they have been changed to reflect their thinking, so that the final product is very much in line with what the Attorney General's committee recommended in that report and, indeed, in their second report.

**Mr. Chairman:** Shall the item carry?

Item 1 agreed to.

Item 2 agreed to.

**Mr. Chairman:** Further debate on this vote?

**Mr. Lawlor:** Which one? Vote 1303-3, Supreme Court accountant or what?

**Mr. Chairman:** Yes, that's the only item left in 1303, Mr. Lawlor.

On item 3, Supreme Court accountant:

**Mr. Lawlor:** Just one question. On page 35 of your brief, you talk about \$155 million Investors Overseas Services which was in court as of a certain date and released. To whom was it released, do you know?

**Mr. Leal:** The member for Lakeshore has indicated that the accounts of the Supreme Court accountant have eliminated the amount of \$155 million which was an amount held in his accounts from Investors Overseas Services. That has now been released as of May 1977. I assume that it was released to those who are making claims against it, but Mr. McGann, the accountant of the Supreme

Court is with us this morning, Mr. Chairman. Perhaps he would like to come up now and give Mr. Lawlor the specific answer. To whom were the funds from IOS released?

**Mr. McGann:** They were paid out pursuant to a Supreme Court order of May 1977, \$26 million to the CIBC for the account of the Bahamas Commonwealth Bank in liquidation and \$124 million to the Bahamas Commonwealth Bank settlement in the Toronto Dominion Bank, which included the joint names of the Fund of Funds, FOF Proprietary Funds Limited, IOS Growth Fund, Venture Fund—all in liquidation.

**Mr. Lawlor:** None of it managed to creep through to Costa Rica?

**Mr. McGann:** No, no sir.

**Mrs. Campbell:** Could you tell me just as a matter of interest, do we have any appreciable moneys paid in as a result of former dower provisions?

**Mr. McGann:** I did see one relatively substantial amount compared to previous dower amounts paid in just recently. It amounted to \$15,000, compared to previous amounts of \$400 or \$300.

**Mrs. Campbell:** But you are not holding any substantial amounts in aggregate?

**Mr. McGann:** No.

**Mr. Lawlor:** Do your interest rates alter? You have got nine per cent for the children and six per cent in ordinary accounts. As this escalation of rates takes place, does the amount of interest attributable to these accounts alter?

**Mr. McGann:** No, the interest rates which are credited to these accounts are based on earnings. We established a nine per cent rate in the latter part of 1974 and we have continued to pay it. Nine per cent a year ago was a super rate; right now, it's just a good rate. It's based on earnings.

**Mr. Lawlor:** Just one comment. This area of the estimates, of which the Deputy Attorney General is somewhat proud I suspect, is self-sustaining. It recovers 100 per cent by way of revenue coming in and leaves a little over. Do a good job and you may be able to balance the budget in due course.

**Mr. McGann:** Not by 1981.

**Mr. Chairman:** We trust that was a factual statement and not a political statement.

**Mrs. Campbell:** Always factual.

**Mr. Chairman:** I can't think anyone would dispute that. I would like to thank you, Mr. McGann, for coming before us. I know you have been sitting out there for three days and we appreciate your patience.

**Mr. McGann:** Thank you.

Item 3 agreed to.

Vote 1303 agreed to.

[12:30]

On vote 1304, crown legal services program, item 1, criminal law division:

**Mrs. Campbell:** What is the present status of the crown attorney provisions for family courts? Are they on an interim basis? Do we now have them established with the court? Do they appear only on proceeds? What is the situation there.

**Hon. Mr. McMurtry:** Mr. Takach may be able to give you more details, but I assume there are crown counsel available if it's a matter involving juvenile delinquency. If your question is related to whether there are specific crown attorneys attached on any permanent basis to the family courts, I don't believe that is the case.

**Mr. Leal:** Mr. Chairman, for the purpose of the record, may I indicate that the Attorney General now is referring to Mr. John Takach, who is the director of crown attorneys in the Ministry of the Attorney General.

**Hon. Mr. McMurtry:** Thank you, Mr. Deputy.

**Mrs. Campbell:** I'm asking particularly with reference to the family court and, I suppose, more specifically with reference to Toronto; although I think Toronto at one time was the only one that did have a permanent crown in the province. Is that right?

**Mr. Takach:** There was one individual, I think, three or four years ago —

**Mrs. Campbell:** More than that.

**Mr. Takach:** Perhaps more than that; perhaps five or seven years ago—who was specifically in the family court, or juvenile court, and was there on a regular basis.

At the present time, I believe it's handled on an assignment basis. In other words, an assistant crown attorney will be assigned for a week or a month to that particular court; and it will change fairly regularly, depending on the assistant crown's commitments elsewhere. But it is staffed.

**Mrs. Campbell:** The reason I ask is that it always seemed strange to me that, particularly with your procedures, because of the system which developed on the death of the former crown, to whom I referred, if there weren't a continuity—there was for a while, and it was helpful, because the crown could help with the lists in sorting out how many you could handle. When it was intermittent, you might have seven cases which on the face of it looked like a pretty short

list, but in one case I can recall there were some 30 witnesses; on that occasion I know we sat until 10:30 at night trying to get through a list.

It seemed to me that it was useful that you had someone who could help in that kind of situation. It did have a good effect on the list itself.

Earlier, Mr. Lawlor was talking about administrators and about judges not being good administrators, but I can tell you from my experience that administrators in that particular type of court don't know very much about a court list or what is involved.

I ask you the question on that basis, because it seems to me that it could create greater efficiency if you could get some assistance from someone who really understood the cases and had some idea of what time it would take so that you didn't put pressures on judges to try to get through more in a day than was really properly before them. Have you had any suggestion as to that kind of approach?

**Mr. Takach:** Yes, as a matter of fact I think at one point Mr. Rickaby, the crown attorney in Toronto, was going to hire a person who wanted to dedicate himself solely to that court. At the last moment this individual, I believe, changed his mind and that was most unfortunate. But we do have a problem, I suppose, in getting an individual who would be interested in doing that on a full-time basis. Naturally, many of the young assistants, while they enjoy and obtain some benefit from going to that court and are able to make a great contribution to it, want to be exposed to other forms of their professional work as well. Even though some may be assigned for a week or a month at a time, it doesn't give that long-run continuity that might be desirable. We would certainly receive any suggestion favourably from any assistant or anyone who wanted to become an assistant that they go to that court on a regular basis and assume a prime responsibility for that court.

In Hamilton we've done that with a part-time assistant, Mr. McCulloch, the former crown attorney for Hamilton. He was and is doing that, to the best of my knowledge, on a regular basis, and that does provide the type of continuity you've mentioned. Wherever possible, we would certainly encourage and foster that concept.

**Mrs. Campbell:** When I was there, we did have a young crown attorney who was very interested in that. Perhaps he's the one who changed his mind, but certainly I couldn't speak too highly of him and his efficiency and his concern. I was sorry that, at that

point, the philosophy was not to have the permanent crown in that court. It seemed to me a mistake.

**Mr. Lawlor:** I want to make a brief statement on this vote:

First of all, I wish to commend the attorneys of this province, particularly the assistant crown attorneys. There are 151 of them and the amount of complaints, the amount of flak flowing from their constant activities in this court, which you would think would attract very considerable vindictiveness, recalcitrance, grievance of various kinds, is minimal. These men are quite remarkable people. This has been true down through the 10 and more years I've been around here.

I want to pause and comment on it because I find it worth adverting to. I would anticipate there would be far more complaints coming through to the deputy and to the Attorney General about the internal workings of the system and their appointees out there. But when they're handing sometimes 50 or 60 cases a day, taking the whole range of bail and everything else into consideration, it is quite phenomenal they're not subjected to far greater recrimination and complaints. Anyhow, I think they deserve that commendation.

Then when you consider our friend Mr. Price, with an almost puritanical legalism or morality—whatever it happens to be—his integrity is very strong indeed. There is no question about it. I don't think he's a deeply-experienced crown attorney, nevertheless he took an immediate and a strong stand with respect to that—I don't want to get into that at the moment. It's just a case in point where he reacted immediately and he reacted with all due propriety in those circumstances.

**Mrs. Campbell:** Even if puritanical.

**Mr. Lawlor:** Even if puritanical. That's the bone of my life—the puritanical morality.

**Mrs. Campbell:** It used to be Presbyterian morality.

**Mr. Lawlor:** This vote has had a very considerable increase. We've gone up about a million bucks, largely through the salary picture and the benefit thing. It's not on the basis of the increase of the complement of the crown attorneys. It went from 141 to 151, it went up 10, and that hardly explains the very considerable increase in this area. I thought more of it would be taken off because of the pressure on these particular courts. Perhaps you would just say a word of explanation to fill that picture out.

**Mr. Leal:** Well, Mr. Chairman, I have some dollar amounts which the member for



Lakeshore may find helpful by way of explanation of the increase. Looking at that item of services. The fourth one from the top in the left-hand column, in the 1977-78 actual expenditures, I'm informed that we had a very, very substantial increase in the cost of investigation of fraud offences, chartered accountants and the like, who were required by the prosecutor to assist him in the preparation of the case, \$650,000. We have, in addition to that in that same item of services, \$1,967,800, Mr. Lawlor, in the first column actual. We have an item of \$100,000 for part-time crowns, in addition to the complement of 151 to which you made reference, we spent an additional \$100,000 on part-time crowns.

**Mr. Lawlor:** You had four part-time crowns in Ottawa, I believe.

**Mr. Leal:** No, but these are people, sir, who are retained on a per diem basis, throughout the province and that's not—

**Mr. Lawlor:** Practising lawyers brought in to do this job.

**Mr. Leal:** Exactly.

**Mr. Lawlor:** Which we don't like and I guess you don't like either, I trust.

**Mr. Leal:** That's right, we would rather have complement personnel, but the money seems to be more easily obtainable this way than with a forward commitment of X number of people.

**Mr. Lawlor:** More easily obtained. You mean a Management Board order is easier to get through after the event than it is to get it inside the estimates?

**Mr. Leal:** Yes, I think that's right.

**Mr. Lawlor:** You're an honest man, Allan.

**Mr. Leal:** I may not be a wise man. This has always been an important item. I suppose to be entirely fair about it, in order to take care of unforeseen fluctuations in the case load—I'm talking now of the prosecutorial case load—maybe in the long run it may be more economical to do it with part-time personnel as the need arises than it is to commit a substantial increase in complement to do it. But I don't pursue that any further, except to say that we do spend a fair amount of money annually on this.

**Mr. Lawlor:** Is an outside crown attorney's per diem substantially different from the normal per diem computed for an acting assistant crown attorney?

**Mr. Leal:** Well, I can't tell you exactly what it is, but I'm sure my colleague Mr. Takach can.

**Mr. Takach:** It's \$35 an hour or a maximum of \$175 a day and there is no limit per year or per month.

**Mr. Lawlor:** And what do you compute when they use an ordinary crown?

**Hon. Mr. McMurtry:** One hundred and seventy five dollars a day as opposed to a crown on full complement. A crown on full complement—it would depend on what seniority, of course, but a young, full-time crown attorney would earn less than \$175 a day.

**Mr. Lawlor:** A good deal less.  
[12:45]

**Hon. Mr. McMurtry:** We don't think that it's a wise expenditure—part-time counsel in place of in-complement counsel.

**Mr. Lawlor:** Well, we trust that you will be appointing more permanent crowns and I would say as far as this member of the opposition is concerned you have our support, in this particular regard. It's just damn nonsense. Secondly it's not just that, it's the appearance of justice a bit again, the man representing accused day after day, always the most qualified one to sit on the bench, then appearing on the bench some afternoon. This was Vernon Singer's favourite topic, if you remember.

**Hon. Mr. McMurtry:** Not sitting on the bench but sitting in the crown prosecutor's chair.

**Mr. Lawlor:** Prosecuting.

**Mrs. Campbell:** Could I ask just one question? How is the experiment working out with the special crown who was assigned to deal with sex offences?

**Hon. Mr. McMurtry:** We had a crown attorney assigned to co-ordinate the serious sex prosecutions, rapes, serious sexual assaults. Mr. Wiley is co-ordinating this. We are trying to give those prosecutions a particularly high priority. As a matter of fact at the annual seminar of the annual meeting of the crown attorneys I have requested that the topic of prosecutions in this area be on the agenda, because we are trying to develop a greater degree of expertise in handling these cases which often are difficult prosecutions.

**Mrs. Campbell:** Could you tell me what increases there have been? I will confine it to rape cases. What increases have there been and have you been able to make any kind of analysis as to whether if there is a major increase, as I am led to believe there is in figures that I have seen? How much of it is as a result of a more sensitive handling

of the situation so that the reporting is going forward, and how much is just a matter of an increase in this activity in our community?

**Hon. Mr. McMurtry:** I think it will take two or three years before we will be able to have any meaningful statistics really. We have created the concept in Metropolitan Toronto of course where it's particularly applicable when you have a large staff. Out of Toronto, staffs are much more limited, but I have indicated my interest in developing greater expertise within the ministry. There's no question that defence counsel develop certain techniques in relation to defending these cases which they are obviously entitled to do, but I have indicated my interest to the criminal division of the ministry and through Mr. Takach. As a matter of fact it was the subject matter of discussion I had as recently as several weeks ago with Mr. Takach and his regional crown attorneys who were meeting.

**Mrs. Campbell:** Has the Attorney General, Mr. Chairman, had an opportunity—or has any of his staff, if not him—to review the edited transcripts of the rape seminars? I believe there have now been two. I was present at the first but couldn't be at the second. Has anyone undertaken any activity vis-à-vis the hospitals? In the first one there was a real indictment of at least some hospitals in what I believe some of the police officers felt was an almost deliberate mishandling of any tests being made because of the lack of desire to become involved. That bothered me when it came out. I felt that in a sense it was related to the whole function of the administration of justice. I wonder whether there has been any progress in trying, either personally or through Mr. Timbrell, to get any kind of reform in this area.

**Hon. Mr. McMurtry:** We were represented at both these conferences.

**Mrs. Campbell:** Yes, you were.

**Hon. Mr. McMurtry:** I haven't actually seen the report. Certainly I was very concerned about what was reported—

**Mrs. Campbell:** I felt you would be.

**Hon. Mr. McMurtry:** —particularly as it was reported in the press, as I recall. I don't know whether we have been able yet to ascertain the extent to which it is a problem, or whether the officer who expressed this opinion was talking about a relatively isolated occurrence.

**Mrs. Campbell:** There were three hospitals named in that transcript which startled me.

**Hon. Mr. McMurtry:** I'm sorry I'm not able to respond to this at the moment.

**Mrs. Campbell:** I shouldn't say in the transcript. They were named at the seminar.

**Hon. Mr. McMurtry:** We'll get this information for you and get the particulars.

**Mr. Lawlor:** There is a very large escalation in fraud investigations, et cetera. I take it that some fairly substantial portion of that is connected with that dredging scandal, Hamilton harbour and what not.

**Hon. Mr. McMurtry:** That certainly was one of the most major prosecutions undertaken in many years, if not the most major, but unfortunately this type of commercial fraud occurrence has skyrocketed, really, right across the board. For example, if you look at police resources 10 or 15 years ago that had to be allocated to the area of commercial crime compared to those resources today, they have increased at an enormously faster rate than the increase in the population. It's a relatively new phenomenon in the last 10 or 15 years, but it is a matter of increasing concern because of the really very significant increase in this type of criminal activity.

**Mr. Lawlor:** The most recent being Sterling Trust, I take it. The other area is decentralization, how it's working, and your future plans for expansion of the concept, which concept I agree with. Is it working out?

**Hon. Mr. McMurtry:** I think it's working out very well. I was just reading a report from our deputy crown attorney in North York during the past week, where he was indicating that in that area they are having no difficulty in having people tried within 90 days of arrest. As a matter of fact, in one case he told me the person not only had a preliminary hearing in the provincial court, but was tried by a county court judge and jury within 90 days of arrest. Unfortunately, that happy situation doesn't occur across the board, but it certainly has improved the system. We had a very successful 90-day experiment—there was a report of it in the press recently—at the old city hall.

I have indicated to our law officers of the crown and to the chief judge of the provincial court that I hoped that trials, at least within the provincial court, within 90 days was an achievable goal. Obviously, it will not be done overnight and there will be many exceptions to it, as a broad standard this is something we are working towards. Whether we'll achieve it by 1981 or 1985 depends on the resources allocated to the system. But I believe very strongly that there should be some goal such as that. As you know, there are some proposed amendments to the Criminal Code in summary conviction offences relating to trials within six

months. Certain states in the United States have passed speedy trial legislation in recent years.

There are obviously enormous administrative problems, but it's a goal we're working towards so far as trials within the provincial court system are concerned. As I say, it's going to take some considerable effort and additional resources to achieve the goal, but we think it's worthwhile to head in that direction. I don't know whether our crown law officers, Mr. John Takach or Mr. Howard Morton, who's the director of the crown law office, would like to comment on any of these matters that have been raised.

**Mr. Lawlor:** You've covered the waterfront.

I understand the Premier of Ontario (Mr. Davis) has made the book 1984 mandatory reading for every member of the cabinet, particularly for you—no, the Treasurer (Mr. F. S. Miller) even more than you—and that you're doing everything in your power to anticipate and thwart, turn aside, the repercussions of that year.

**Hon. Mr. McMurtry:** It's interesting you mention that. It seems to me that when that book was published so many years ago, and when I first read it many, many years ago, I thought 1984 was a hell of a long way down the road, and it disturbed me.

**Mr. Lawlor:** It's tomorrow, boy. You know what you're up against. You didn't say much about extending the concept of decentralization to perhaps more metropolitan areas, et cetera, and then out further.

**Hon. Mr. McMurtry:** It's a particular problem in Metropolitan Toronto, because we have a crown attorney staff of, I think, approximately 60 in the Metropolitan Toronto area—the judicial district of York. This is a unique problem, so we really have, in effect, broken up this one office into four semi-autonomous offices.

At the same time we instituted this decentralization, we instituted a form of regionalization of the province. We broke the province down, I think it was into eight regions. A senior crown attorney in each of those regions was appointed a regional crown attorney, in order to improve communication between 18 King Street East and the regions. These regional crown attorneys meet as a group at 18 King Street East at least once a month, sometimes twice a month, to discuss policy matters of all kinds.

In my view this has created a much better system of communication. That was also part

of the problem. These regional crown attorneys in turn conduct meetings in their own particular regions. I don't know of any other crown attorneys' offices in the province that need to be decentralized in the way—

**Mr. Lawlor:** In that sense.

**Hon. Mr. McMurtry:** —in the sense we did in Metropolitan Toronto. I can't think of any, because—

**Mr. Lawlor:** Hamilton has nothing comparable?

**Hon. Mr. McMurtry:** —there's nothing comparable to the size of the judicial district of York. Almost 50 per cent of the criminal cases in the province—40 or 50 per cent of the cases in the whole province—are heard in the judicial district of York. It's an astonishing statistic, really.

**Mrs. Campbell:** That doesn't mean that they're all residents of Metro either.

**Hon. Mr. McMurtry:** No, they're not all residents.

**Mr. Leal:** You mean the crowns or the criminals?

**Hon. Mr. McMurtry:** Some in St. George, but not too many.

**Mrs. Campbell:** One of the things that is causing me ongoing alarm is the increase in computer crime. I wonder if you've done any kind of analysis on this subject or on how we're doing compared with other jurisdictions. In terms of the government's own computers, it concerns me that we seem not to have developed any kinds of techniques—at least not apparently—to deal with it. Is there any comment on that?

[1:00]

**Hon. Mr. McMurtry:** Mr. Howard Morton has some experience in this area.

**Mr. Morton:** We've looked at the problems of proof with respect to computer fraud or computer theft along with the police forces in Ontario. However, it's not that common an offence in this province as yet. It's more prevalent in the United States, and particularly California. But I'm sure it will arrive here. The federal government has also asked us whether in our view there ought to be a separate section of the Criminal Code for computer theft and we're working on that now.

**Mrs. Campbell:** I appreciate that. It seems to me the time to look at it is before it gets to be too prevalent in this province or this country. I'm glad it's being considered because it really frightens me.

**Mr. Chairman:** We shall resume debate at 3 o'clock Thursday after orders.

The committee adjourned at 1:02 p.m.



## CONTENTS

Friday, November 10, 1978

<b>Administrative services program</b> .....	J-413
Analysis, research and planning .....	J-413
<b>Guardian and trustee services program</b> .....	J-414
Official guardian .....	J-414
Supreme Court accountant .....	J-415
<b>Crown legal services program</b> .....	J-416
Criminal law division .....	J-416
<b>Adjournment</b> .....	J-420

## SPEAKERS IN THIS ISSUE

Campbell, M. (St. George L)  
 Lawlor, P. D. (Lakeshore NDP)  
 MacBeth, J. P. (Humber PC)  
 McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)  
 Philip, E.; Chairman (Etobicoke NDP)

**From the Ministry of the Attorney General:**  
 Leal, H. A., Deputy Attorney General  
 McCann, E. J., Accountant of the Supreme Court of Ontario  
 Morton, H. F., Director, Crown Law Office, Criminal  
 Takach, J. D., Deputy Director of Criminal Law and Director of Crown Attorneys

**Also taking part:**  
 Bauer, B., President, Professional Verbatim Reporters' Association











No. J-19

# Legislature of Ontario Debates

Official Report (Hansard)  
Daily Edition

## Administration of Justice Committee

Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Thursday, November 16, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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## LEGISLATURE OF ONTARIO

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THURSDAY, NOVEMBER 16, 1978

The committee met at 3.49 p.m.  
(After other business).

### ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1304, crown legal services program; item 1, criminal law division:

**Mr. Chairman:** We have five hours and eight minutes left in the Attorney General's estimates—Mrs. Campbell.

**Mrs. Campbell:** You will recall I asked the question on the Slomka matter in Hamilton when we were going through the early procedures and I would like an answer.

**Hon. Mr. McMurtry:** Perhaps I haven't seen the memorandum. It is apparently being prepared for me, Mrs. Campbell, but Mr. John Takach, the director of crown attorneys, who is with us, I think can respond to the question. If the honourable member would be prepared to accept the answers to the extent he can supply them, I'd ask Mr. Takach to respond at this time.

**Mrs. Campbell:** Mr. Chairman, if the Attorney General hasn't seen the answers, I would think—it is in his hands, but I would accord him that courtesy, certainly.

**Hon. Mr. McMurtry:** I have no objection to Mr. Takach responding directly.

**Mrs. Campbell:** Fine. Then maybe we could get the answer.

**Mr. Takach:** In this instance, Mr. Slomka, who was before the provincial court judge, faced one of a number of charges he had faced over the recent past. The judge in question indicated he felt it would be unfair for him to deal with this particular individual, by virtue of the fact he had dealt with him before on a number of other charges. I think he said something to the effect that he might be biased or there might be an apprehension of bias with respect to this individual, because he knew the individual and his family, at least by implication. He indicated he wanted to be sure he was fair to the accused, and asked that the case be dealt with before another judge or in another courtroom.

Unfortunately, at that time all the other courtrooms were occupied and the judges

were busy. Although an attempt was made to have the case disposed of before another judge, it was not successful. Counsel for the accused was insistent that the matter proceed on that day, at that time, indicating the accused was going to plead guilty and that he had discussed with the crown counsel the appropriateness of sentence or the appropriate range of sentence, he asked the matter be disposed of before that judge.

I think the judge in question again indicated he felt there might be an apprehension of bias, or he might not be able to deal with the matter, but at the insistence of defence counsel he did deal with the matter. Inasmuch as crown counsel and defence counsel agreed as to the appropriateness or the appropriate range of sentence, the accused was dealt with before the judge and sentence imposed.

**Mrs. Campbell:** I appreciate that. The way in which the newspaper article reported it, he referred to Mr. Slomka and his whole family or—I don't have it before me at this point. It seemed to me a most unfortunate situation that in those circumstances we could not find another judge available.

Also, it indicated in the article that the judge himself was privy to the sentencing and it was agreed upon by everybody before he heard anything formally. It bothers me that this can happen in our courts. The way it appeared in the press just didn't satisfy me that justice was done in that case. It seems inappropriate to me that a judge is going to be privy to this kind of plea bargaining almost. It's taking that a little step forward in a case, and that I'm not very happy about. Having in mind the statement that has been made, does the Attorney General have any comment?

**Hon. Mr. McMurtry:** Yes. We have been advised by Mr. Takach that we have not yet seen an actual transcript as it is not yet available. It certainly concerns me in relation to the manner in which it was reported by the press; which may be quite accurate, I'm not commenting on that one way or the other. Whereas I see nothing wrong with a defence counsel and crown counsel indicating their own views as to a range of sentence on a guilty plea, I would be very concerned

if the trial judge did, in fact, delegate his judicial responsibility to defence counsel and crown counsel agreeing or reaching a consensus on sentence. Although a consensus as to the range of sentence may be put to the judge by defence counsel and crown counsel, I think that is useful and should be given considerable weight since they are the people who are most intimately involved with the facts of the case, in the final analysis it must be the sentence of the judge, it must be his judicial determination. The extent to which the press reports indicate that the judge may have delegated his judicial responsibility to counsel in this case then, is a matter of some concern to me.

[4:00]

**Mrs. Campbell:** I take it that you will be pursuing the matter when you have a transcript.

**Hon. Mr. McMurtry:** Yes, we will pursue it. My own view is that the crown counsel—despite being faced with rather unusual circumstances wherein the defence counsel insisted on entering a plea of guilty, insisted on pursuing the matter in relation to the sentence, and having clearly invited the judge on behalf of his client to endorse the consensus that had been reached by counsel for the crown and counsel for the accused—notwithstanding all of these facts, which are relatively unusual—

**Mrs. Campbell:** I hope.

**Hon. Mr. McMurtry:** —I still think the crown counsel should have reminded the judge that he was not bound by any consensus reached and the final determination must be that of the judge.

**Mr. Lawlor:** May I ask a question on this? I doubt whether that report is accurate, that a judge would abdicate his peculiar function, particularly anyone with any experience. On the other hand, suppose you should find that out, can you indicate to us what exactly you could do about it?

**Hon. Mr. McMurtry:** It's hard to speculate about something in this area, and it's perhaps hazardous to speculate without having all of the facts before you—I would be rather inclined to instruct crown counsel that, as an officer of the court performing a very important function, they should act in such a way as to discourage a judge from abdicating his responsibility in those circumstances, if that in fact is what occurred.

**Mrs. Campbell:** Surely if there are further incidents of people with the same name, one would hope that somebody would insure that no member of the family, or of a group

with that name, would appear before that judge.

**Hon. Mr. McMurtry:** I suppose in this particular case—

**Mr. Leal:** Like the Smiths.

**Mrs. Campbell:** No, he is reported to have said that he knew the whole family and he didn't want to have anything to do with any of them. That was the thing that was difficult. I understand there are three families of that name in the telephone directory in Hamilton.

**Hon. Mr. McMurtry:** I gather that he wanted to make it very clear to the accused, if the press report is accurate in this respect, that he felt that he should not deal with the matter. In other words, he was very candid, I think, in admitting that there was a possibility of bias and it was his desire to alert defence counsel, and of course the accused, and invite that person to be tried by another judge. To this extent the judge, being a human being, was prepared to admit that he might be biased or that there might be an appearance of bias, and he indicated to defence counsel, therefore, it should be tried by another judge.

That fact in itself might be to the judge's credit, rather than simply keeping this bias to himself. Notwithstanding this expression on behalf of the judge, the accused still insisted on being tried by the very person who—

**Mrs. Campbell:** I don't know that the accused did, it seems his counsel did. I didn't hear what the accused felt about all this.

**Hon. Mr. McMurtry:** I think we have to assume, Mr. Chairman, that defence counsel was acting on proper instructions.

**Mr. Lawlor:** He was a very shrewd defence counsel. He thought he would compensate for the bias by giving even a lower sentence than the one he himself proposed. It sounds pretty awful to me.

**Mrs. Campbell:** It does to me too and I hope that we can clear it up for the future.

The other comment I really want to make in starting, since I couldn't get a supplementary in, is to pursue briefly the Attorney General's indication that with women he would like to have—and I think in fairness with anyone—someone with five to 10 years' experience in the practice of law. I wondered why, if that were the case, the guidelines have been changed, since we did appoint a very able judge who had never practised in the province of Ontario. I don't know that he ever practised. He was not able to practise in the province of Ontario since he was from the United States. I wondered if there were different criteria in these cases.

**Hon. Mr. McMurtry:** First of all, I think you have to look at the provincial court, family, and provincial court, criminal. The courts are obviously of a different nature. I'm not suggesting that there aren't many people who are very well qualified to serve in either court, but in relation to the provincial court, criminal, my view has been that although there are exceptions the federal rule in relation to judicial appointments is generally a wise rule, that is that the individual should be a member of the bar for at least 10 years. I happen to be one who believes that a certain amount of wisdom is acquired on a chronological basis.

**Mrs. Campbell:** If it isn't it's dead.

**Hon. Mr. McMurtry:** Regardless of how brilliant the individual may be who has only been out of law school for several years, I think one has to be cautious about those appointments. So my view is that, generally speaking, 10 years at the bar is a useful guideline in relation to provincial court, criminal, appointments.

I've tended to adopt the attitude that certain individuals with outstanding qualities who have served something less at the bar may make extremely good appointments to the family court, simply because of their particular experience and interest in that field. Sometimes younger people, and I'm not suggesting by this that older people don't possess the sensitivity, but sometimes the younger judges treating problems involving young people have demonstrated at an early age the type of sensitivity that would be a useful addition to the bench.

The matter of the one appointment that was made to the family court of this province—and I think I know the person of whom Mrs. Campbell speaks—was made prior to my appointment as Attorney General. I'm not suggesting for one moment that I would not have wished to make the same appointment, because I think that individual is an outstanding person—

**Mrs. Campbell:** Without question.

**Hon. Mr. McMurtry:** —who had a combination of experience and training that made it quite obvious he would be an excellent appointment. The only thing that individual really lacked was a call to the Ontario bar—

**Mrs. Campbell:** And practice.

**Hon. Mr. McMurtry:** —and practice at the Ontario bar—but that individual, as you know, had been associated with the family court in another capacity for some period of time, so although technically he had not practised as a lawyer before the family court he was quite familiar with practice before

the courts because of the term he served in this other capacity. Although I think it is, generally speaking, important for the individual candidate to have had some practical experience as a lawyer, there are exceptions. Certainly that individual was one exception who deserved to be an exception. I think under the federal law there is no doubt that individual could not have been appointed to any federal judgeship in Canada.

**Mr. Stong:** I would just follow that up with a question to the minister as to what weight he does attach to such considerations. Because appointments to the provincial court bench, criminal division, are basically specialized—colloquially called criminal practice—what weight do you attach to the consideration that a person appointed to that bench should have practised criminal law rather than some other form of law while at the bar?

**Hon. Mr. McMurtry:** I think that is an important factor to be considered but by no means an all-important factor. It's one that must be weighed with other factors in looking at that candidate as a total person. I personally don't think that having practised in the criminal courts is an essential prerequisite. I think it is desirable but by no means essential. I can't assist you as indicating by any formula to what extent that should be a factor. For example, people who have practised in other courts and tribunals and have had very little criminal practice could still be excellent candidates. I think in these appointments we are looking for people who possess not only the necessary intelligence which would allow them to acquire the necessary knowledge in relation to the criminal law and procedure in a relatively short period of time, if they do not already possess it, but the necessary combination of judgement and sensitivity to human problems. All those factors I think have to be weighed very carefully.

One has to look at the individual from the standpoint of the extent they possess not only sensitivity but some degree of patience in sitting in a court day after day in challenging situations. There are many human factors that have to be considered. I have never seen any jurisdiction being able to set all of these factors into some nice neat little formula which says so much percentage must be in relation to this attribute and so much to that.

**Mr. Roy:** I take it we are discussing the problem of the appointments to the provincial court, criminal division. I was going to raise it at a later time this afternoon. I appreciate what the Attorney General has said about the difficulty. I have been one who has ap-



plauded the Attorney General on many occasions when I thought he was proceeding along the right course in one area or another.

I have said it publicly and I am not afraid to repeat it publicly now: by and large, I think the appointments to the provincial court in my area, both family and criminal divisions, have been excellent ones. The Attorney General has responded to inquiries and recommendations from people in the community. That is good in the sense that who best knows the qualifications of a particular lawyer than some of his colleagues or some of the local bench on things of this nature.

[4:15]

But I do feel it my duty, nevertheless, just as I applaud what I think are proper actions on the part of the Attorney General, to say to you that notwithstanding the fact there are problems in finding suitable women candidates for the provincial court, criminal division, I really think the evidence speaks for itself. When out of 134 positions there is not one woman judge in this province, I think that somehow we have erred in that field. I think that it is something we should give more emphasis to and put more focus on.

I appreciate what the Attorney General says, that you would like to use a standard of 10 years' experience. But I think, in fairness, you have not followed the standards slavishly; I think there have been some circumstances when there have been some appointments that have been, if not 10 years very close to 10 years.

I only give you the example of His Honour Judge Belanger in Ottawa. I am not sure that he has 10 years. I recall I think he graduated from the bar in 1968 or 1969.

**Hon. Mr. McMurtry:** I thought it was about 10 years.

**Mr. Roy:** You are within that range. Because of that situation I think it is a glaring omission, for lack of a better word. I really think that we must focus on that. It is just not acceptable that of 134 candidates there are no women judges. I recall that, as I understand it, you talked about the monetary problems in your answer to the House. I point out that we have, I think, three women judges on the family division side, and, as I understand, it is the same remuneration as on the criminal side.

**Hon. Mr. McMurtry:** I would just like to say you can't force people to take appointments, I think that goes without saying. I have had one application in three years from a woman indicating an interest, and provincial court, criminal, was not this woman's

first choice, it was about the third choice. I want to make that point, because I think it is fundamental to the problem.

**Mr. Roy:** But I really think—

**Hon. Mr. McMurtry:** It may seem obvious, I agree, but—

**Mr. Roy:** I can recall, Mr. Attorney General, a few years ago that there was a glaring discrepancy, I think at the county level, and the Supreme Court level as well. That situation to some measure has been corrected. I think at that time what happened was that there was an emphasis on the part of the federal Attorney General and the Law Society of Upper Canada to look at that situation.

Maybe the member for St. George (Mrs. Campbell) could be more helpful in this, but I suspect that there may be some reluctance on the part of certain women practitioners, maybe a certain amount of modesty on their part, to apply for this. It is not something they focus on perhaps. I think in view of the problem we have to focus on it more.

If we can get judges at the Supreme Court level, even in the court of appeal I think there is one, and at the county court and the family court levels, I think we should be able to do likewise on the provincial court, criminal division.

**Hon. Mr. McMurtry:** I think it is going to change dramatically in the very near future. I left the practice of law, as you know, just over three years ago. I used to appear in the criminal courts with a fair degree of frequency. I don't know what the member's experience was in Ottawa, but it was very rare to see a woman lawyer appearing in a criminal court up to as recently as my departure from the practice of law. I'm advised that it is not rare at all now. Even just within the last three years women are appearing in the criminal courts with a fair degree of frequency.

I would expect, because of this indication of interest in the criminal law on behalf of our women lawyers—and of course these women who are appearing are for the most part recent graduates—that in the relatively near future there are going to be quite a few appointments from the ranks of women lawyers. Maybe down the road one of you people who may be sitting in my position, for example, may have the opportunity of appointing one of my daughters. Would you like to give me some undertaking?

**Mr. Roy:** I can't give a written—however, if it's one of the four of us, or maybe 10 of us around this place, I think we'll correct the general situation.

I want to ask the minister as well, as a matter of interest, and there's no pressing urgency for this, how many women crown attorneys are there in the province now?

**Hon. Mr. McMurtry:** Nine assistant crown attorneys.

**Mr. Roy:** They're all assistant crown attorneys, none are crown attorneys as such?

**Hon. Mr. McMurtry:** And there are three in the crown law office. This has been a dramatic increase just within the last three years.

**Mrs. Campbell:** They're crackerjacks, too.

**Hon. Mr. McMurtry:** Yes, they certainly are.

**Mrs. Campbell:** Even if I disagree with them.

**Hon. Mr. McMurtry:** I'd be very happy if one of my colleagues here disagrees with me, but from my information, and on what I hear from people like Mr. Stong who appear in the criminal courts with frequency, the women appearing in the criminal courts of this province who have been out more than five years are a relative handful. I just want to make that point. When the honourable member says, "assistant crown attorneys but not crown attorneys," we don't have any crown attorneys who haven't practised law at least five years. I just want to make the point that we've had a dramatic increase in the number of women who are serving as crown attorneys, albeit assistant crown attorneys. The only reason there aren't any who aren't full crown attorneys is simply that there haven't been any number of women practising in the criminal courts of this province for that period of time.

**Mrs. Campbell:** Mr. Chairman, I think the women are in a state where they are beginning to overcome the tradition and the history. When I started in law it was the criminal law I wanted to get into, but there was absolutely no way I could do justice to a client as a woman in a criminal court at that time. I remember discussing the matter with the late Vera Parsons, who I suppose is known as the outstanding criminal lawyer among the female of the species. She said to me finally that she was giving it up because she felt she was not able to do full justice to her clients, before certain judges anyway, by continuing in the criminal practice. If you recall, she did not continue in the criminal practice during the latter part of her practice.

What I think I am saying to the Attorney General is perhaps there is some way in which some encouragement can be given.

Most of us realized there was literally no way we could succeed in practising in the criminal courts of this province at the time I graduated from law school.

**Mr. Chairman:** We are still on vote 1304, item 1.

**Mr. Leal:** Mr. Chairman, there were a couple of questions directed toward the expenditures out of the Law Foundation of Ontario funds with regard the Abel study on constitutional law and the John Howard Society. Blenus Wright, the assistant deputy minister who is the Attorney General's representative on the council of the law foundation, has filed with me the answers to those questions. Briefly, the answer regarding the late Professor Abel's study group on the constitution is that following the professor's untimely death it appears that Dean Ken Lysyk of the faculty of law, University of British Columbia, who is a member of the original committee, has assumed the chairmanship of that committee. They will be reporting in due course. This information has come to us from a Mr. B. Finlay of the firm of Weir and Foulds, who was also a member of the committee.

With regard to the grants to the John Howard Society: In 1976 it was \$27,650; in 1977, \$24,650; and in 1978, \$30,000. These are grants that are made to assist Mr. W. F. McCabe, a penologist of long experience and outstanding scholarship, who produces briefs for the John Howard Society which endeavours to initiate or react to government inquiries concerning all matters regarding prison reform. I ask leave to file these with the committee please, Mr. Chairman.

**Mr. Chairman:** Thank you. Are there any questions stemming from the answers that have just been given? Shall we return then to vote 1304, item 1? Any further questions on the criminal law division? Mr. Roy.

**Mr. Roy:** No, no, my questions are not there. Thank you, Mr. Chairman.

Item 1 agreed to.

On item 2, civil law division:

**Mr. Roy:** Can I ask one question on the civil law division? This sounds like sort of a wild-eyed suggestion or question, but it's something I have been thinking about for some time. In view of our dwindling energy resources and the rights to the sun, which I have been reading up on in the last while, I wanted to ask the Attorney General, or possibly the deputy, a question. It's something that is coming for the future, something we are going to have to grapple with in the not-too-distant future when we are looking at alternative energy sources. It in-

volves the right of individuals to the use of the sun unhampered and the obligation of other individuals not to hamper the use of the sun.

I will give an example, and the Attorney General would know about this. All over Israel, on top of almost every building, there are these contraptions which heat water using the direct rays of the sun. Of course in downtown Toronto that would be a problem in some of our areas because of the height of buildings and everything else. It comes down to problems we face more and more as we get involved in large metropolitan centres and as we become more and more urbanized, such as the rights to air, the rights to view, the rights to have access to the sun's rays. The sun is something that's of concern, because if individuals are to be encouraged to make use of such things to reduce the high need for energy, there are going to have to be some laws.

[4:30]

I don't think there are any laws on the books prohibiting people from interfering with other people's rights to the sun. That's why I question—and I think this is the proper place, in the civil law division—whether we're contemplating, in the long term, having some laws on the books, or at least studying the problem. I appreciate we don't want to make laws before we really look at the problems that may be caused dealing with certain individual rights to use the sun or the wind. I suppose there is another type of contraption which uses the wind to generate energy.

I just thought I would ask whether this is something we might look at in the long term. It's not a pressing problem today, but it could very well be as the cost of energy increases and people are looking to alternatives. It's not going to be much satisfaction to an individual who wants to use an alternative source of energy, if all around him there is no sun because of the height of buildings or because a neighbour decides to put up an apartment building or something.

Hon. Mr. McMurtry: Or a tree.

Mr. Roy: I don't know whether a tree—

Mrs. Campbell: The government has made people, I'm not sure about their building any trees.

Mr. Roy: I think you understand what my concern is; I just wonder whether we're looking at that in the long term. I think it's something that is going to be raised at some point.

Hon. Mr. McMurtry: I'll ask the Deputy Attorney General; he may have some information which I don't have. I must admit that

the first thing that occurred to me was whether or not the jurisdiction should be on the platter at our continuing constitutional discussions with the federal government, because the federal government may feel it has some paramountcy in the field since it deals with an interprovincial and international matter, I don't know.

Mr. Lawlor: He wants your place in the sun.

Mrs. Campbell: I thought there was a song about "the sun belongs to all of us" or something; maybe it was the stars, I don't know.

Mr. MacBeth: The best things in life are free.

Hon. Mr. McMurtry: Mr. Deputy Attorney General, can you assist us?

Mr. Leal: Mr. Chairman, I'm glad to have the opportunity to continue my exchange with Mr. Lawlor on the basic principles in land law prompted by the question of the honourable member for Ottawa East.

Purely fortuitously—or perhaps not so much fortuitously because, after all, alternative methods of energy, including solar panels, are now a fact; they exist in buildings, one close to where we sit now—I have seen within the last six months, and it is confirmed by my colleague Mr. Wright, a preliminary report on this very point of the ancient right to light. I don't know whether the sun's rays are included in the ancient right to light or not, I really don't know. I do know that the ancient right to light was abolished in Ontario—there is no such thing at the moment—and the only way you can get—

Mrs. Campbell: By this government no doubt.

Mr. Leal: No, by Sir Oliver Mowat. It does exist by way of contract, it does exist by way of prescription; but it doesn't exist by way of an immemorial right dating back to the time when Richard Coeur de Lion crossed to Normandy or something.

In any event, it's by no means an esoteric exercise. Perhaps I could say to the honourable member that because that report does exist, may I review it; and if we can produce it for you we'd be glad to do that. I think it emanated from the Ministry of Housing. They were concerned about it with regard to solar energy as an alternative source. I'll make a note of it and produce it.

Mr. Lawlor: You might also distribute a few rights to wind.

Hon. Mr. McMurtry: Obviously that hasn't been taken away in Ontario.

Mr. Lawlor: It's been franchised.



**Hon. Mr. McMurtry:** I am told there is a case on its way to the Supreme Court of Canada that is analogous to some extent. It's an issue between the government of Manitoba and the federal government with respect to air space—who owns the air space or has jurisdiction. The Manitoba government has attempted to tax Air Canada flights across air space over Manitoba and there is a serious issue. A list has been joined as to who has jurisdiction over the air space; this seems to me to be an analogous issue.

**Mr. Roy:** The reason I raised it, I guess, is that the potential struck me on visiting Israel. In every major centre of Israel—Jerusalem, Tel Aviv, and so forth—on every building, pretty well, there's a solar panel heating water. All the buildings are pretty well the same height. It struck me if you start erecting buildings that cause shadows on the other buildings you're affecting the functioning of that solar panel. That's just something we may be looking at in the future, on a long term, so if we had reports on it we might be able to deal with that.

**Mr. Chairman:** Further questions on item 2? **Mr. Lawlor:**

**Mr. Lawlor:** A fairly proverbial point: On the previous vote we had external personnel. Here, it seems, there is a reduction item—on page 41 of your blue book, special consultant fees—a reduction of \$110,000. My impression is that in the crown law office you are pretty well self-sufficient now in this area. Are you calling upon external counsel in the area of litigation or otherwise?

**Mr. Leal:** The item of \$110,000, Mr. Lawlor, is the fee of the counsel in the Dow Chemical case.

**Mrs. Campbell:** Oh boy; what was that case all about?

**Mr. Leal:** I think it was a more than modest fee for the long time he was involved.

**Hon. Mr. McMurtry:** I think his actual fee, as I recall, is a small fraction of that. The balance of it is consultants.

**Mr. Chairman:** Is that what you call a fee for service?

**Mr. Lawlor:** That's interesting to know. I won't raise any squabble about it. What about the other part of my question?

**Hon. Mr. McMurtry:** About outside counsel we have retained; of course we have to utilize part-time assistant crown attorneys in our provincial courts, as you know.

**Mrs. Campbell:** To your regret.

**Hon. Mr. McMurtry:** Yes, I don't like the practice. We don't retain outside counsel in

civil cases that I'm aware of. There may be the occasional—

**Mr. Lawlor:** You mean in the constitutional area?

**Hon. Mr. McMurtry:** Certainly not in the constitutional area.

**Mrs. Campbell:** Are you sure that's wise?

**Mr. Lawlor:** The Attorney General is very sensitive about this subject.

**Mr. Chairman:** I might say, Mr. Lawlor, that perhaps all the outside consultants have been hired by the Saskatchewan government, but—

**Mr. Lawlor:** It bothers me a bit, looking at 43, that the branch in the fiscal year 1978-79 handled some 2,400 new cases, in addition to a carryover of 1,800 cases—and that 1,800 carries into the next year. In other words if you take 1,800 from 2,400 it seems the progress in handling cases is not astonishing.

**Hon. Mr. McMurtry:** We'd like to have more help, we'd like to retain more counsel.

**Mr. Lawlor:** It's not because of the backlog in the courts and because you're being hung up by counsel for the other side; it's simply a dearth of fully-equipped personnel.

**Hon. Mr. McMurtry:** The work load has increased dramatically in recent years and our increase in resources has not kept up with the increase in work load.

**Mr. Leal:** I think, Mr. Attorney General, if I may, in replying to the honourable member for Lakeshore, what has now been said certainly is a factor, but there's another important factor, I'm told, and that is, this carryover of 1,800 cases represents cases which have been begun but are still going on. In other words, it's not an arrears situation at all. This, if you like, sir, is simply a photograph of what's happening there at that time, so you get 2,400 new cases in the year and the ones that are being carried on from former years and not yet completed involve 1,800.

**Mr. Lawlor:** It seems to me a large proportion, that's all.

**Mr. Leal:** It's actually 75 per cent, is it not; which does seem large, but I'll see if I can get closer to that.

**Mr. Lawlor:** How many men and women have you in that area acting in motor vehicle negligence actions, which represent 20 per cent of those cases? They must be specialists in this field.

**Mr. Leal:** I am informed, Mr. Chairman, that on that particular aspect of our work in the civil law branch we have two full-time

claims adjusters, and then for cases that are taken to litigation the work is spread out over four or five members of the legal staff in that branch or that division.

**Mr. Roy:** Are these motor vehicle cases involving the government? That has nothing to do with the motor vehicle accident claims fund or anything?

**Mr. Leal:** The government is a party.

**Mr. Roy:** When the government is a party?

**Mr. Leal:** Yes, any subrogated claims under the Workmen's Compensation Act.

**Mr. Lawlor:** And government vehicles are involved?

**Mr. Leal:** Yes.

**Mr. Lawlor:** But how about Mr. Roy's question with respect to the claims fund?

**Mr. Roy:** Usually under the motor vehicle accident claims fund it's Consumer and Commercial Relations and it's transferred to agents who are paid by that ministry, I take it, not this ministry. The same thing happens, I take it, for the Official Guardian. That's not under this either, is it?

**Hon. Mr. McMurtry:** No, the Official Guardian is under this ministry.

**Mr. Roy:** The Official Guardian is something that is separate again? Your civil section does not handle claims involving children and all that; that's handled separately?

**Mr. Leal:** May I ask Mr. Wright about this?

**Mr. Wright:** No, the subrogated claims are mostly the OPP claims; that's the greatest bulk of the claims, OPP claims under workmen's compensation. Then you get Ministry of Transportation and Communications, but fewer personal injuries there than, of course, with the OPP, because they are travelling the highways all the time and they're involved in more accidents than your MTC people.

**Mr. Roy:** Just so I understand that process, you would act on behalf of an OPP officer who had elected not to take workmen's compensation benefits, is that what you're saying?

**Mr. Wright:** No, if he elects to take the benefits then the right is subrogated to the crown and we act on behalf of the officer.

**Mr. Roy:** I see, those are subrogated claims, if he decides not to proceed; then he proceeds on his own?

**Mr. Wright:** That's correct.

[4:45]

**Mrs. Campbell:** On this matter of the motor vehicles and the fund you say that is under another ministry, but one thing was brought to my attention which I think is rather a poor procedure. I had a case—and I think it now probably is with the Ombudsman; the situation was that a man had a claim against him as a result of a motor vehicle accident. He applied for legal aid and was not allowed legal aid on the basis that the counsel for the fund could present his case. The counsel for the fund, I think quite properly, took the position that he was not acting on his behalf. Here is a man who is quite convinced that he was not the author of the problem, but couldn't get any kind of assistance because of the existence of the procedures under the fund.

The fund, as I understand it, does employ outside counsel. I would like to see the minister review this kind of procedure. I think people could be very prejudiced if they were advised by legal aid that they had to use the counsel for the fund in the accident and then the counsel takes the position: "I'm not representing him." There he is, without any really adequate protection at all.

**Hon. Mr. McMurtry:** I could be mistaken, and I will certainly review this, but my understanding of the practice was that legal aid would often encourage uninsured drivers to resort to counsel who were going to be employed by the fund in any event, mainly because these counsel generally possess the necessary expertise in defending this type of litigation, and to avoid the situation whereby you have the taxpayers paying for two lawyers for really the same individual—one representing the taxpayers vis-à-vis the fund, and the other counsel, paid also by the taxpayers, representing the individuals in their personal interest.

I quite concede that there could be occasions in which an individual, for example, might say: "I want to fight the issue of liability, regardless of the weight of evidence that is alleged to be on the other side. I think I was blameless, or less blameless than counsel for the fund believe, and have the right to have this issue determined."

My own information is that, generally speaking, this is very seldom a problem. Occasionally people who are represented by the counsel supplied by the fund will retain on their own independent counsel to advise them, because there is an important issue here. The judgement, as you know, is assigned, and although the fund pays the judgement in the first instance the uninsured defendant remains liable. I was unaware of the fact that the legal aid took the position

that there was an absolute prohibition of providing separate counsel to people in those circumstances.

**Mrs. Campbell:** In this particular case there was a settlement arrived at and I think it was something like \$5,000. The defendant was denying liability throughout. The settlement was made without any consultation with him and there he is, without a licence, he can't pay the \$5,000, and it's put him into a real mess. I think those procedures should be investigated. I think they should be looked at. I'm not suggesting in this particular case that there was a denial of justice, because frankly I tried to track down evidence, and was unable to do so, from the TTC, which could have been witnesses on his behalf.

**Hon. Mr. McMurtry:** My own experience in acting for plaintiffs and having people come to me with a similar problem is that often people would be served and ignore the whole process; it was only after the fund was served and they took over, it was only after some distance down the road when they realized that they were faced with judgement and a licence suspension that they came to the point of view that they had a defence. This assertion of a defence was often some distance down the road, but I agree with you that a real problem can develop where there is a conflict of interest.

**Mr. Roy:** I have a hard time understanding your case, Margaret, because generally the—

**Mrs. Campbell:** In this case, I have to deal with the man through an interpreter. I think that's a factor.

**Mr. Roy:** Unless there is a default on the part of the defendant, that's the way it works usually. There has to be default. If the fellow wants to defend his case, likely he'll get counsel or legal aid and the fund only gets involved when there's a default. Most often what happens is there is, in fact, a default on the part of defendant and then you're dealing with the fund.

If the guy wants to go the other way, you go all the other way until you get a judgement, then the fund comes in. Generally speaking, it's one or the other, not both. I have a hard time understanding.

**Mrs. Campbell:** This was my problem, because, as I say, I was dealing with the gentleman through an interpreter. The story I got—and I tracked it down to some extent—was that he had applied for legal aid and was referred to the fund counsel. He saw the counsel. I believe I spoke to the counsel—I have to be careful on that one—I spoke to

someone in the office who confirmed the fact, but his responsibility was to the fund.

I just don't know. I wasn't familiar with that procedure and it worried me. He certainly alleged that he had tried everything to get help and that was the advice given by legal aid.

**Hon. Mr. McMurtry:** As I say, the fund may sometimes encourage that. It's possible that some legal aid officer said: "If there's a default the fund will bring in a good lawyer." It's complicated further by the fact that when legal aid provides a counsel sometimes there's relatively little incentive on the part of legal aid counsel to defend a case overly vigorously—this is the other side of the coin—because the party themselves couldn't care less whether there's a judgement against them.

As a result, the fund, and therefore the taxpayers, looking at it from the other side of the coin, end up paying much larger judgements than would have been the case if the case was properly defended. That's another dimension of the problem.

**Mrs. Campbell:** I'll get the case to the Attorney General and he can examine it.

**Mr. Chairman:** While you're at it, Mrs. Campbell, I have one in my briefcase that's quite similar to that that I'm going to give to the Attorney General as well. This is one where the fund didn't check out that he had, in fact, appeared to contest the accusations of the person he hit and they paid out the money and then proceeded to cancel his licence. He has the receipts that he did, in fact, show up and was contesting the allegations.

**Mr. Roy:** He may contest it at the wrong level. He may contest it at the quasi-criminal court under the Highway Traffic Act and not contest it in the civil courts.

**Mr. Lawlor:** With respect, I don't know what relevance this has to the particular vote.

**Mr. Roy:** It's very interesting though.

**Hon. Mr. McMurtry:** We're trying to help you solve your problem, Mr. Chairman.

**Mr. Chairman:** Any other questions under this vote?

**Mrs. Campbell:** Defend the Islanders.

**Hon. Mr. McMurtry:** I'm with you, Margaret.

**Mrs. Campbell:** Good. Are you going to attend too?

Item 2 agreed to.

On item 3, common legal services:

**Mr. Lawlor:** This is a money-making vote, where the ministry has recovered from other



ministries through its seconding of lawyers. It gets in \$5.2 million and it paid out \$4.7 million. How can that be?

**Hon. Mr. McMurtry:** I'm sorry. Where are we? I didn't hear the question.

**Mr. Lawlor:** I'm at page 44 in your blue book. In other words, you are getting more money in because you hire out these lawyers in a sense, than what you yourselves have to pay. I am looking at the 1977-78 actual disbursements and receipts.

**Mr. Leal:** Mr. Chairman, looking at that column which is the left-hand column, the 1977-78 actual expenditure, we appear to have disbursed \$5,352,000, and we appear to have recovered \$5,203,600.

**Mr. Lawlor:** I am looking at salaries and wages only. And you are looking at the fuller range?

**Mr. Roy:** You have run a law office, Patrick—overhead, the whole bit.

**Mr. Lawlor:** Obviously, then, the recovery takes into account the range of services and transportation.

**Hon. Mr. McMurtry:** I am told the difference is Mr. Hilton's office. He is Assistant Deputy Attorney General in charge of common legal services. The difference between those two figures is the cost required to run his office within the ministry.

**Mr. Lawlor:** Okay. Just to take a look at it for a moment. I see that Environment is entered twice at page 45. Why? There are seven lawyers in one column, and one in another. Why do you write that up? Why is that done that way?

**Mr. Hilton:** There is an anomaly in Environment, and that is in the person of Dr. Henry Landis, who came into that legal branch from the Ontario Water Resources Commission where he was the director. He acts as a direct adviser in relation to legislation, and is not really recognized as part of the legal branch directly. But both he and Mr. Mulvaney and his staff in the other seven or 12 total, are part of my staff. There were two directors. It is a question of accommodating a supernumerary.

**Mr. Lawlor:** In the last year I can see there are two extra in Community and Social Services and an extra lawyer appointed to Housing, so there are 16 legal officers there now; whereas the previous year there were 15. I am not going to inquire too deeply about that. I just point it out. I could inquire just a little more. Why two more lawyers in community services?

**Mr. Hilton:** The whole new program in relation to child welfare and all the chil-

dren's services generally, working with Judge George Thomson, has required legal advice and expertise.

**Mr. Roy:** Mr. Chairman, I just had one inquiry, under what they call the Proceedings Against the Crown Act. I notice every year we vote \$1,000 for that and in 1976-77 all at once there was \$38,000 there. Can someone explain to me what that was all about? If you look at your estimates, every year you have \$1,000 and all at once you have \$38,000 and then back to \$1,000.

[5:00]

**Mr. Leal:** I think we have the answer, Mr. Chairman. The \$1,000 is simply a nominal amount put in because we have no way of forecasting what we will need; ex hypothesi, we don't know how many cases there are going to be. The other figure is the actual amount we did expend on those crown cases.

**Mr. Roy:** The Proceedings Against the Crown Act—those are actions against the government, aren't they? This \$1,000 voted is in case—

**Mr. Leal:** It's a contingency reserve, that's all. It has no bearing on what the actual amount expended may be.

**Mr. Roy:** If I could use this vote, Mr. Chairman, to express a concern which I'm sure the Attorney General and members of the Ministry of the Attorney General himself have. He has expressed that concern by his brief on limitation periods. The Proceedings Against the Crown Act does have a limitation period as well. When are we likely to see the legislation dealing with limitation periods? Those limitation periods are the greatest anomalies in our law. I would certainly encourage the Attorney General to move in that area. I know he has printed something on it and I think he asked for submissions from the profession on it.

**Hon. Mr. McMurtry:** We're ready to go. I remember our former colleague, Vern Singer, on more than one occasion during estimates in my relatively brief sojourn here, expressed the hope he might still be here when that new limitations act was passed. We're ready to go with the legislation, I'm told. The problem has been we just don't have the legislative time this fall.

**Mr. Roy:** The minister is ready to go on it, it's just a matter of legislative time. I'm glad to hear that, because if there is one thing, I might say, Mr. Chairman, to the Attorney General, the public has difficulty understanding it is limitation periods and the reason why, when one is involved with certain aspects with municipalities, one has

seven days to give notice. There are not only limitation periods but one has to give certain statutory notices as well.

**Hon. Mr. McMurtry:** It used to drive me nuts as a lawyer.

**Mr. Roy:** It's just absolutely ludicrous. Mr. Chairman, do you know the guys who are more favoured: The undertakers of this province. They have, I think, a three-month limitation period.

Item 3 agreed to.

Vote 1304 agreed to.

On vote 1305, legislative counsel services program:

**Mr. Lawlor:** I have several things under vote 1305.

"If a man would, according to law, give to another an orange instead of saying: 'I give you that orange' which one should think would be what is called in legal phraseology 'an absolute conveyance of all right and title therein', the phrase would run thus: 'I give you all and singular, my estate and interest, right, title, claim and advantage of and in the orange, with all its rind, skin, juice, pulp and pips, and all right and advantage therein, with full power to bite, cut, suck and otherwise eat the same, or give the same away as fully and effectually as I, the said A.B. am now entitled to bite, suck or otherwise eat the same orange, or give the same away, with or without its rind, skin, juice, pulp, and pips, anything hereinbefore, or hereinafter, or in any other deed or deed, instrument or instruments of what nature or kind soever, to the contrary in any wise, notwithstanding.'"

I wanted to sum up the picture in the fullest way possible. How is consolidation coming, the vision of the statutes? We're coming close to the end of a period in which this is done. Where do we stand on that at the present time?

**Mr. Leal:** Mr. Chairman, I wonder if I might have your indulgence to ask the senior legislative counsel, Mr. A. N. Stone, QC, to respond to the question.

**Mr. Stone:** It's a little early for the 1980 revision to be specifically undertaken. However, since the 1970 revision, a constant update has been maintained which can be printed at any time. All the amendments are in and it's constantly updated so that very little lead time is needed in order to produce the 1980 revision. We expect that if it is authorized to proceed it would include the 1980 session. We would start our work on it towards the end of 1980 and have it out within the first four or five months of 1981.

**Mr. Lawlor:** I know that in one of the volumes you take some of the old statutes, but there are a very large number of statutes that are operative in our law quia emptores; there are any number of statutes which are operative and which are not immediately available. How is the legal profession supposed to have immediate access to those?

**Mr. Stone:** I'm not sure which ones you refer to, Mr. Lawlor.

**Mr. Lawlor:** The statutes around 1688. There are statutes arising out of those acts in 1744. I know this because of certain studies I was doing last year for which I had to go to the ancient statute books of the province of Ontario in order to extract them. Why are they not immediately available within the current statute law?

**Mr. Stone:** To the best of our knowledge, everything applicable in Ontario from the English law before 1792 is brought forward.

**Mr. Lawlor:** I found that not to be so.

**Mr. Stone:** Was it the Bill of Rights?

**Mr. Lawlor:** No, it was the prerogatives and rules of members of the House and all that kind of stuff.

**Mr. Stone:** In the 1897 revised statutes it was also at that time authorized for the commissioners to do research on the English law that may still be applicable in Ontario. That was completed in about 1902 and published as an extra volume to the 1897 revision, volume three. From that research, the English law that was adopted in 1792 was incorporated into the Ontario law only if the Ontario courts recognized it. So to the best of their ability, they collected this and it was reprinted and published as a statement of the law of Ontario and adopted. Everything that wasn't in there was repealed. So the reason the Bill of Rights is not in there—is this the William and Mary Bill of Rights—is because they classified that as constitutional and therefore not adopted into the law of Ontario. It's one of the constitutional documents of Ontario—and Canada actually.

**Mr. Leal:** I think, Mr. Chairman, I can confirm what senior legislative counsel has just now said. At one stage the Ontario Law Reform Commission had an item on its program to do exactly what the member for Lakeshore has suggested—bring forward all the old English legislation that was applicable and re-enact it in this province and republish it as part of our statute law in the revision. Anything that wasn't, of course, would just be put to one side. We came to the same conclusion that senior legislative

counsel has now stated, that apart from one or two obvious things like the William and Mary Bill of Rights, which was kept out for another reason, all that old English law either was discarded and repealed so far as it applied to Ontario or it was re-enacted. That's why quia emptores went into our statute book at that time.

Australia, on the other hand, has had to mount a very substantial research project, and an expensive one, to do what was done by our revision people back about the turn of the century. But I don't think that's any longer a problem for us.

**Mr. MacBeth:** Perhaps while Mr. Stone is with us, Mr. Chairman, I could mention the Humane Society Act. I suppose that is regarded as a private act, but the Solicitor General's office had much reference to it; and the public generally wanted to know about it on many occasions because of the exclusive jurisdiction which it gives the humane society. I think we asked some time ago that it be included in the revised statutes. Have you any comments? Are you still planning to do that, or what is the situation?

**Mr. Stone:** Yes, I'm inclined to agree. When it was omitted from the revision, in about 1950, I think at that time the humane society was more clearly a private institution than it is now. Since then it has additional powers through the Animals for Research Act, whatever the name is, that went through about five years ago. It performs much more of a public function and has less public powers, so I think maybe it should be in the next revision.

**Mr. MacBeth:** I would just like to go on record, Mr. Attorney General, as making that request. I think it would be useful not only to the ministry but to the public generally.

**Hon. Mr. McMurtry:** It seems a very sound suggestion to me.

**Mr. Lawlor:** In the revision, as opposed to consolidation, do you prune otiose law—old law, inoperative and gone out of operation?

**Mr. Stone:** Only if it clearly has become obsolete by its terms. We're very cautious about making changes. Any changes made would be purely of an editorial or drafting nature, or to incorporate a lot of the blanket amendments that have been made—name changes of ministries and that sort of thing. So a lot of the sweeping acts we had in the early 1970s—the age of majority, the reorganization, the civil rights law amendment act; all those have to be fixed into all the

others so you don't find it changed only by reference.

In about the 1950 revision, 1950 and 1960, there were reforms in drafting style, a more modern drafting style was introduced which required more work on the part of the revisers. That has settled down now so I don't expect we will be doing much in that line in 1980.

**Mr. Lawlor:** You can't bring the statute of frauds into more contemporary drafting style?

**Mr. Leal:** It's been suggested it might be repealed, Mr. Lawlor.

**Mr. Lawlor:** I want to read you something: In a report submitted to the Ontario House fairly recently—that of the standing committee on statutory instruments, the first report of June 1978. It reads at page 52 as follows: "One other matter was discussed with the ministry's officials"—that is not you gentlemen, except Mr. Stone maybe—"which the committee wishes to mention in this report. Strong criticism was voiced at the long-established style followed in Ontario's statutes and regulations with respect to compound section references. The committee believes that the current system is about as difficult as possible to follow in that compound references are expressed backwards. To take an example, the Ontario style starts with the subclause, followed by the clause, then the subsection, then the section and then the act." Then it gives the example.

"We recommend that consideration be given to the adoption of a more modern, more direct, shorter and more understandable style; such as has been done, the committee is advised, in a number of Canadian and other jurisdictions. Why not, for example, make the reference this way: Section, subsection, subclause, clause, subclause, clause of the Education Act"—and so on—"or some other similar style, that refers to the major division then works down to the minor division? We have illustrated our views by the way in which references are expressed in this report." Would you comment on that? [5:15]

**Mr. Stone:** This is a matter of drafting style. The method you refer to has been tried in three or four other Canadian jurisdictions.

**Mr. Lawlor:** You mentioned the federal.

**Mr. Stone:** The federal is one they have done that. These jurisdictions are split on what you call it; that is if it is clause a of subsection 1 of section 26 whether you call it clause 26-1(a) or whether you call it



section 26-1(a). It does get into problems if you really examine it closely. I'm not saying they are insurmountable, but there is no uniformity.

**Mr. Lawlor:** You hear the undertone of discontent from our colleagues who are not lawyers who read statutes day in and day out. For one so well acquainted—I mean we spend our whole lives with the things—I have difficulty on occasion. I think it ought to be—and this wasn't my particular suggestion, all I joined in was the chorus with respect to the promotion of revision to the way in which this is set out.

I do think it is more rational, and more immediately understandable, particularly for the non-lawyer in the House and the non-lawyer reading statutes. Public libraries have our statutes and people do resort to them. I often send a person over to the library to take a look at the very section involved. I am sure they hesitate and pause when they see the two small subclause figures, et cetera, coming in preference to the central section they wish to zero in on.

I know you have been over this ground, but I would ask you not to let heredity much less environment affect your thinking. It is just because it is ensconced, and has been for many of hundreds of years as far as I can see, that this kind of citation is done in this particular way. Some thought should be given to what I consider an easier, more rational way of setting forth the sections, particularly as you come through the heart of a section in reading a piece of legislation before the House.

**Mr. Stone:** The time to make such a change would be on the revision so it could all be done at the same time. This is one question of many we need to determine before undertaking a revision, that is establish policy as to what we will do at that time in changing that. I am attracted, myself, to making a change, but at the same time I want to observe its operation elsewhere and keep in close touch with this. It will be two years before we need to decide.

**Mr. Lawlor:** With respect, I would like either the Attorney General or the deputy to give me some kind of indication of what their response might be in this area.

**Hon. Mr. McMurtry:** Over to you.

**Mr. Leal:** In principle, I am in accord with what Mr. Lawlor suggests. The thing that has precluded the change he requests is that there is a very strong tendency, going back to time immemorial, to preserve drafting language in words and not in figures and to write it all out. Even if you have a

figure, you don't put the figure in an arabic 2, you spell it two. That's not consistent, because in the very illustration to which the member is referring, a subsection in our statute will appear written out subsectioned arabic numeral 2 closed bracket; so we don't really adhere to it uniformly.

The other thing I wanted to mention is not only ought we to consider this at the time, but also as a drafting matter if any reference is made. We ought to consider whether we should get some uniformity between the provincial rule and the federal rule on designating the division. For example, with us, it goes I think, Mr. Stone, section, subsection, paragraph, subparagraph, clause and subclause for those six divisions. The feds do it differently. They say section, subsection, clause, subclause, paragraph, and subparagraph.

When you read two acts, and particularly when you get into an act like the Income Tax Act, if you don't have that in mind, you say "They've got it all wrong again". You don't know, actually, to what they are referring. We ought to make it uniform, I agree.

**Mr. Lawlor:** To follow the federal mode of designation would involve roman numerals and whatnot. Coming from this House, it is quite confusing on its face.

**Mr. Leal:** Perhaps Mr. Stone and I could at least go this far today and say, "Yes, we will have a good look at it with a view to the 1980 revision."

There is, of course, the other thing at which we would like to take a look. I know Mr. Stone has made a study and is therefore in a much better position to speak on it than I am. That is a decimal system of numbering, so that when you get a section number engrained on your heart as section 26 or 29 of the Planning Act, in any subsequent revision that number is never changed. It always stays the way God intended—section 29. You have block decimal numbers so any amendments can be put in between; you don't have to change your numeration because you have a revision. That's another thing which legislative counsel could look at. It's a very real problem.

**Mr. Lawlor:** It's a good point. Certain sections are engraved on your heart, and when you see a change you are completely lost. You can't even refer to it anymore.

**Mr. Chairman:** Are there any further questions or comments on 1305?

**Mr. Lawlor:** Just one thing: The usual—and I don't mean it in that sense—commendation to legislative counsel. I think all

members of the House are always quite taken with the kind of drafting work done. When we bring private bills we get immediate attention. The suggestions made in drafting those bills often add a dimension, too. The bill would be completely nugatory if it hadn't got to the hands of legislative counsel, who fills it with substance. I know you are not supposed to do that, but somehow in the course of discussion new points come out.

Vote 1305 agreed to.

On vote 1306, courts administration program; item 1, program administration:

**Mr. Roy:** Mr. Chairman, I have a number of questions to the Attorney General which encompass all the courts—the Supreme Court, county court, small claims court and provincial court, all in one. If I may, with your permission Mr. Chairman, ask my questions of the Attorney General under what we call the program administration I can cover all of these items.

I would like to ask the Attorney General, since we passed the amendments to the Judicature Act in relation to French language courts in certain areas of the province, I would like to get an up-to-date report of what has been done.

First of all, has that law been proclaimed? Have we proclaimed any areas of the province where we can move those services into some of our courts, either small claims or county court? Where are we at this stage?

**Hon. Mr. McMurtry:** I'll have to check on this, because I have been very concerned about getting some of the orders in council passed in relation to this legislation. I'm just not sure at this moment whether any of the orders in council that were being prepared have been passed. There's a possibility that some of them might even have been passed by cabinet in my absence by reason of estimates and some other meetings. Can anybody assist me on that? It seemed to me many weeks ago I was wondering what the state of the nation was in relation to these orders in council in relation to the designated areas. I think some have gone to cabinet, as I recall.

**Mr. Brian McLoughlin,** the director of courts administration, will respond with some details.

**Mr. McLoughlin:** Sudbury, the criminal and the family division; Ottawa, criminal and family; Cochrane North, criminal; and Prescott, criminal.

**Mr. Roy:** We're pretty nearly at the same state we were when we amended the Judicature Act back in June of this year. That is now a proclamation that is made under the

amendments to the Judicature Act that you're talking about?

**Mr. McLoughlin:** Yes.

**Mr. Roy:** Let me make some comments about that:

In passing this legislation, Mr. Attorney General—and I think Mr. Lawlor, participated in that as well—we were all cognizant of what we were doing and cognizant that there are practical problems in proceeding in those areas.

But I frankly see no impediment. For instance, you take Prescott-Russell. In my opinion—and I say this with respect—there's just no reason why the family court in Prescott-Russell should not be operating in French. We're talking about a population which is about 80 to 85 per cent francophone in Prescott-Russell. There's just no reason why we should continue this, what I consider to be somewhat duplicitous process. All the participants there are French-speaking and they're all going through the process of speaking English for the record or going through interpreters. It just slows down the whole process and it's extremely frustrating.

I can speak about Prescott-Russell because I go there occasionally and see what is happening. I say there's just no reason why we should not move into the family courts in that area. In fact, in Prescott-Russell I suggest there's no reason why we shouldn't now move into the small claims court or into the county court. With the Supreme Court there is a problem because I suppose you would have to assure, depending on what type of trials were coming forward, that you would be able to send a bilingual judge from the Supreme Court level.

In another area I'm familiar with, Ottawa-Carleton, there are the provincial courts, criminal and family divisions, fine, I think we've got the personnel and it's adapting pretty well. One problem is that we've got to let the community know that the program is there. There must be signs all over the place and people must be advised.

We've got to enlist our colleagues in the professions as well. We have to get our colleagues who are francophone to shape up, to take part and encourage people to use the system.

[5:30]

But let's look at the other courts in Ottawa-Carleton: The small claims court may be a problem, because you have now appointed a small claims court judge and I don't think he speaks French. You may have a problem there.

At the county court level you might have a problem in the personnel in your office. You shouldn't have one with the judges, because presently in Ottawa-Carleton, at the county court level, I can think of at least four—I think Doyle, Smith, Marin, Soubliere; so you have the judges there to give that service.

Is there any timetable, looking down the road, to proclaim some of those areas where we can let the public know that the laws we pass here in the Legislature are coming into force in various areas of the province?

**Hon. Mr. McMurtry:** The Prescott-Russell family court, I gather, will be ready in January. Small claims court forms are in the process of being translated. I would certainly like to see this extended to the county court area, particularly in Ottawa-Carleton, early in the new year. I agree there are the judicial personnel. I would like to think this is one area where we could proceed in the very near future.

I would give the member for Ottawa East my undertaking that I will really push this, because I am very much concerned about any perception that may be created that anybody is dragging their feet.

**Mr. Roy:** I haven't accused anyone of that.

**Hon. Mr. McMurtry:** I know you haven't. But even if the perception exists elsewhere—I am not suggesting you have.

**Mr. Roy:** Just recently I had a trial in Prescott-Russell and it was typical of the problems we are facing. Everybody spoke French, all the witnesses and everybody else, and yet we had to go through that interpreter. If you understand both languages, I tell you, there is nothing so maddening as having to go through that process. It is one of the tricks we use sometimes; if you want to protect one of your witnesses tell him to give his evidence in French so the defence counsel can't get at him directly with questions, he has to go through an interpreter.

But when you are involved in that process, it is most annoying; and it just doesn't make sense, for instance, in an area like Prescott-Russell.

I would like to focus on certain areas where we can move without too many problems. The law was passed at the county and Supreme Court levels—we are talking about the procedure in court and not about pleadings—and maybe this is less a problem than I make it to be, but in Ottawa-Carleton about six months ago you fused both offices, the county and Supreme Court offices. You probably heard some flak from the local bar about this. I had occasion to witness the line-ups in that office; people waiting an

hour or an hour and a half. You take a number and you get back in line.

You may just want to issue a writ or you may just want some information, to open a book, but you have to get in line.

I tell you, there is bad feeling in that office, the personnel is pretty jittery. Don't try to move up on the line there or you are asking for trouble in the county court office.

I really think we should look at that office in terms of giving better service to the public and to the law profession who come in there and have these long waits to get service at the desk in Ottawa-Carleton. Maybe there should be one person there, as we move into these processes in French, who can respond when someone comes in to inquire in French about what he might do when he has just been served with a writ or something else. We don't have that presently—or do we have it now?

**Mr. McLoughlin:** Yes.

**Mr. Roy:** It's recent then. How recent?

**Mr. McLoughlin:** Within the last month I guess.

**Mr. Roy:** You see, I've been away. If that is the case, that can be helpful. You've heard flak, obviously, about the problems in that office; the long waits and the service given at the desk.

**Mr. McLoughlin:** Yes, we have, Mr. Roy. I can tell you what we're doing. As a matter of fact we've had the auditors in there. We've been looking at the systems.

As you know, it's partially a physical problem of the offices being on two floors. One of our local registrars is going down from London to spend a couple of weeks with Mr. Polk and they're going to develop some new systems.

The other thing that we're going to do is put in a trial co-ordinator.

**Mr. Lawlor:** A what?

**Mr. McLoughlin:** We're going to put in a trial co-ordinator as well, to liaise with the bar on the lists and so on. Hopefully we will get relief from the waiting.

**Mr. Roy:** A trial co-ordinator?

**Mr. McLoughlin:** Yes.

**Mr. Roy:** That's a good idea. That's an excellent idea. I must tell you, Mr. Attorney General, I don't want to attribute anything to the unfortunate passing away of any particular individual, but in the Ottawa-Carleton area the whole county court system has been operating much better since the appointment of Judge Flanagan as a senior judge. Now there are assignment courts that set dates for a trial.



I've been hearing some flak from the legal profession about the Supreme Court. Ottawa has a bad reputation in Toronto. With Supreme Court judges the lawyers have the reputation of being philanderers and people who try to get adjournments all the time.

**Hon. Mr. McMurtry:** Oh no!

**Mr. Roy:** The Supreme Court judges have been coming down with fire in their eyes and I'll tell you—

**Mr. Lawlor:** What kind of fire?

**Mr. Roy:** —there are no adjournments, for any reasons given. There is a system in the Supreme Court in Toronto where you have assignments. Don't they have an assignment process here in Toronto? Why couldn't that work in Ottawa? The problem is not doing the litigation, the actual trial, it's the edginess and fingernail chewing that goes on while you try to find out if you are going to be reached today or next week. You never know when you're going to get a phone call.

Let me give you an example. I happened to be in Ottawa yesterday and I saw a note on my desk that the office had called saying: "You're 35 on the Supreme Court list and you may be called in a week or two." I was sitting in the House getting ready to ask the Attorney General a question and I had some trepidation, my hands were shaking when I asked you a question this afternoon. I had just received a note from the office saying: "Be ready with your case tomorrow morning." I had been told it was going to be two weeks from now. That creates a problem in organizing witnesses. I would hope we could work with the Supreme Court judges to see if we can't have an assignment process set up in Ottawa like you have here in Toronto.

**Hon. Mr. McMurtry:** Just before we continue, I would like to make a comment in relation to the remarks of the distinguished member for Ottawa East, who is almost perfectly bilingual. I admire his facility in both official languages, but I think there was a word he used a little earlier, Mr. Chairman, that he would like to see corrected in Hansard. I certainly would not want to see him embarrassed with his colleagues in the Ottawa area. He referred to the members of the Ottawa bar as philanderers.

**Mr. Acting Chairman:** I just looked the word up and it says to flirt. I decided that it wasn't all that bad.

**Hon. Mr. McMurtry:** Maybe it was deliberate. I thought perhaps he might wish the record to read "procrastinators," but far be it from me to—angels may fear to tread—

**Mr. Roy:** The word was not all that bad.

**Hon. Mr. McMurtry:** Fine, I will say nothing further.

**Mr. Roy:** Mr. Attorney General, I'm saying the word was used by others about them, I'm not making that comment about them. I guess if to flirt is sometimes an act of not being too serious about a particular process then I suppose it's not the correct word, you're right.

**Mr. Lawlor:** I think there may be some who court with them.

**Mr. Roy:** No, but they flirt with their cases you see; they say they're not really serious. Anyway, I appreciate the Attorney General's intervention. I suppose the proper word would have been procrastinators. However, I tell you the Supreme Court judges are coming down. They have the word, obviously, from the chief justice, saying look at Ottawa, don't let them procrastinate, get them on the lists and get those cases heard.

I think there is a better method. It's a matter of getting together, and then I think you can process as many cases through the court without upsetting or making life so difficult for those who are involved in the litigation process.

**Mr. McLoughlin:** I think Mr. Roy will find that when we get the trial co-ordinator in place this will be of great assistance. As a matter of fact, I met yesterday with Judge Flanagan on the role of the trial co-ordinator. We're going to look at it as sort of a 10-judge court. There will be two to three Supreme Court judges who are virtually sitting in Ottawa all the time, plus seven men on the county court bench. They'll do trial co-ordination for both courts. I think the point you raised about scheduling and so on will be much relieved.

**Mr. Roy:** The problem has been much relieved in the county court. We used to have a problem, prior to Judge Flanagan's arrival, where you just took your chances. The minute your case got on the list you didn't know where you were. Now they have an assignment process to set dates for them and the system works pretty well. Now it's the Supreme Court level where there is a problem. I'm glad to have that information from Mr. McLoughlin because I think there is a way of making a system work where everybody is co-operating. The bar is co-operating at the county court level. You set a date and that's the date on which you proceed. At least if you've got some certainty when you're going on you can plan your affairs accordingly, but the process of getting mid-afternoon phone calls is a problem. I'm going to have a problem tomorrow morning; it's

going to be interesting to see how that's resolved.

**Hon. Mr. McMurtry:** Who is the judge?

**Mr. Roy:** I have no idea. It's a Supreme Court judge, but I don't know who.

**Mr. Leal:** You'll be in estimates, Mr. Roy.

**Mr. Roy:** I'm glad to hear that.

**Mr. Lawlor:** Don't do any philandering in the morning.

**Mr. Roy:** I won't have time. Mr. Chairman, I have some other questions but I'll ask them later. Maybe some of my colleagues have questions on this.

**Mr. Acting Chairman:** Mr. Lawlor, do you have any questions in regard to the use of the French language in all of those courts? I think that's what we've been dealing with.

**Mr. Lawlor:** On item 1.

**Mr. Acting Chairman:** Well, I think you were covering the whole field, weren't you?

**Mr. Roy:** Yes, I was asking questions on it.

**Mr. Acting Chairman:** On 1306, items 1 to 5.

**Mr. Lawlor:** The opening remarks were perhaps a little more prolonged than normal in the estimates. In them, we did go over certain aspects of the courts, so I'm going to foreshorten my comments about this area.

I'm looking at the article by Peter Russell and Gary Watson back a couple of years ago. They were talking about the court administration proposals that transform all responsibility for running the entire court system from the Attorney General to the judicial council. I'd like to spend a few moments on the judicial council and its operations. We have referred to it earlier, have you second thoughts or does the system seem to you to be in place and working to some degree?

**Mr. Acting Chairman:** Mr. Lawlor, do you want to get into that now? I see it's a quarter to; you said you wanted to spend a few minutes on it, do you mean five minutes or two minutes?

**Mr. Lawlor:** Five minutes. Don't we have to be up there at ten to?

**Mr. Acting Chairman:** At 10 minutes to, I think; yes, all right.

**Hon. Mr. McMurtry:** What are we voting on?

**Mr. Acting Chairman:** Toronto Island; you said you wanted to be on record for the island?

[5:45]

**Hon. Mr. McMurtry:** Oh yes. Just briefly then, because we did touch on it earlier and I think I should respond at some length.

The white paper on courts administration, to which I think Messrs. Russell and Watson refer, as you know has not been carried through in so far as legislation is concerned and the administration of the courts remains with the Ministry of the Attorney General. The judicial advisory council, which is assisting in the sense of making recommendations and reviewing problems that are submitted to that council, I think is a very important initiative. Again I repeat what I said earlier in the estimates, I am very much obliged to the Chief Justice of Ontario and other chief judges of the province for their enthusiastic participation in some of the problem-solving in relation to the administration of justice in so far as it is appropriate for them to become involved at this time, given the responsibility of the Attorney General.

As to whether or not we will proceed with the white paper, it's just too early, in my view, to respond or answer one way or the other. Certainly, again repeating what I said earlier, it's our view that the involvement of the chief justices and chief judges through the mechanism of the judicial advisory council, and other perhaps more informal interaction, is a very necessary step in determining whether or not any legislation should be passed to transfer this responsibility.

Again, Mr. Chairman, I reiterate what I said earlier, a number of individuals, both within the profession and outside, within the judiciary, have also expressed concern in relation to any watering down of the Attorney General's responsibility and accountability to the Legislature for the administration of the courts, and I'm of course very cognizant of the legitimacy of those concerns. It is a concern that has been expressed to me, I can say publicly, by the former chairman of the Ontario Law Reform Commission, former Chief Justice James MacRuer, and expressed to me by the Lord Chancellor of England; it's a very delicate issue.

**Mr. Lawlor:** I guess you are into the testing period.

**Mr. Chairman:** Sorry, Mr. Lawlor. There is a vote in the House in about one minute and 33 seconds, so you can get your track shoes on. These are the private members' bills.

**Hon. Mr. McMurtry:** We will continue tomorrow morning then?

**Mr. Chairman:** Yes, we will continue tomorrow morning. We have approximately three hours left, and hopefully, with the committee's permission, we will conclude that.

The committee adjourned at 5:49 p.m.

## CONTENTS

---

Thursday, November 16, 1978

Crown legal services program .....	J-425
Criminal law division .....	J-425
Civil law division .....	J-429
Common legal services .....	J-433
Legislative counsel services program.....	J-435
Courts administration program .....	J-438
Program administration .....	J-438
Adjournment .....	J-441

## SPEAKERS IN THIS ISSUE

---

Campbell, M. (St. George L)

Lawlor, P. D. (Lakeshore NDP)

MacBeth, J. P.; Acting Chairman (Humber PC)

McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)

Philip, E.; Chairman (Etobicoke NDP)

Roy, A. J. (Ottawa East L)

Stong, A. (York Centre L)

**From the Ministry of the Attorney General:**

Hilton, J. D., Assistant Deputy Attorney General, Common Legal Services

Leal, H. A., Deputy Attorney General

McLoughlin, Assistant Deputy Attorney General and Director Courts Administration

Stone, A. N., Senior Legislative Counsel

Takach, J. D., Deputy Director of Criminal Law and Director of Crown Attorneys

Wright, B., Assistant Deputy Attorney General, Crown Law Office Civil



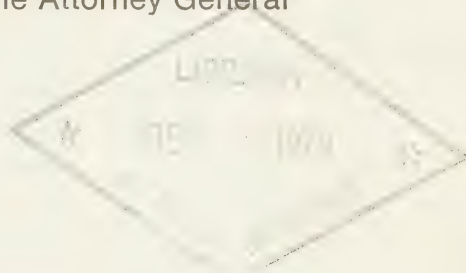


# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### Administration of Justice Committee

Estimates, Ministry of the Attorney General



**Second Session, 31st Parliament**

Friday, November 17, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

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FRIDAY, NOVEMBER 17, 1978

The committee met at 11:25 a.m.  
[After other business]

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1306, courts administration program; item 1, program administration:

**Mr. Stong:** We left off yesterday afternoon on this vote and I did want to ask the minister what the proposed changes to the Small Claims Courts Act were and what we could expect. There's been something in the media about raising the jurisdiction to \$3,000 and revising the procedure and I'm wondering what's in store.

**Hon. Mr. McMurtry:** There's been no decision on behalf of the government. I think there's a great deal of speculation. There's been no decision by cabinet. I am interested in the concept of developing a small claims court with a jurisdiction of \$3,000, possibly starting this as a pilot project in the judicial district of York with the court to be known as a provincial civil court and with the small claims court being one level of the court. Inasmuch as I think once you get beyond \$1,000—at least as of today; next year we may feel differently—that you're really getting beyond small claims.

If we proceed, it would be a two-tiered court with the present small claims court remaining with a jurisdiction of \$1,000, at least for the present time. The second tier would have a set of rules and procedures that are a little more elaborate than what is presently provided for the small claims court, particularly as I believe while there should be some provision for pre-trial disclosure, it should be somewhat less elaborate than the present rules for the county and Supreme Court. Most members of the committee would agree it's very expensive for an individual to litigate civil action between \$1,000 and \$3,000 with the possibility of extensive examination for discovery and pre-trial motions.

What we would hope to accomplish if we proceed is simply to provide the average person with greater accessibility to civil courts up to \$3,000. By saying greater accessibility,

I mean that accessibility is directly related to the cost of litigating a law suit. We'd like to be able to provide a forum that is not as expensive as it is now to litigate these smaller county court claims.

**Mr. Stong:** Do you intend to have the judges determine that aspect of the claim between \$1,000 and \$3,000? Do you expect to use the county court judge complement?

**Hon. Mr. McMurtry:** My own view is that we should be expanding the small claims court complement. I'm not content with the existing situation in a small claims court in the province. I do not believe these courts should be manned by part-time judges, i.e. lawyers in practice, and I hope we'll be able to expand the small claims court to full-time judiciary in areas where the county court judges say they don't have the time and require the assistance of practising lawyers. If this provincial civil division is to get off the ground, it should be on the basis of provincial appointees to a special court. It will be a provincial court and therefore we should have the responsibility of the appointments.

**Mr. Stong:** You indicated that you wanted to loosen up pre-trial disclosure somewhat, but you did want to retain it. Does that mean you envisage changes in the form of pleadings and those formalities?

**Hon. Mr. McMurtry:** I don't have any comprehensive plan in relation to the forms or the rules. We've asked various people to look at this problem. We discussed it with Mr. Walter Williston, who as you know is looking at the rules of the civil procedure generally, and he is going to have some of his resource people come up with some proposals as to what might be appropriate for such a court.

**Mr. Renwick:** I agree it should be a pilot project. I do believe it should be in the judicial district of York because the opportunity there for experimentation would be somewhat greater than limiting it to a particular court or limited number of courts elsewhere.

I certainly agree with the establishment of that court in such a way that it's seen to be part of the provincial court system for civil litigation.

I agree totally that the judges must devote their full time and attention to that court.



My concern would be that it gets focused on this always arbitrary question of dollar amount rather than on a specific attempt to make that court, through the use of comparisons with other jurisdictions such as Illinois, California and other places, a most modern method of seeing whether or not we can break away from relative stereotypes about pleadings and that kind of problem. We have simply got to direct our attention to making certain that if you do change, whatever the change is in respect to the ambit of the jurisdiction of that court, it has to be kept inexpensive.

What I really wish to say is that I hope really serious thought will be given to another model for that court, the way in which it operates and the proceedings, and that we try to get away from necessarily thinking that the only model is to adapt it towards the existing system.

**Hon. Mr. McMurtry:** I'm sorry; what was the last part about the model?

**Mr. Renwick:** To not be tied into the view that the only model for that court is to adapt it to the way in which the superior courts operate. I think there is another model which, wrenching one's attitudes towards courts, it would be possible to establish a model that at least would be as good for the settlement of these claims as is the hallowed system in the higher courts.

**Hon. Mr. McMurtry:** Certainly as I view it, I think a very important element to such a court would be conciliation procedures, which are not really available in the so-called higher courts except to a limited extent in matrimonial matters. I certainly believe—and I think I am simply agreeing with what Mr. Renwick states—that one of the thrusts should be towards conciliation. That certainly seems to be working quite effectively in some jurisdictions in the United States. I agree that the traditional approach, namely, that the adversary system is the sort of the be-all and the end-all, is not realistic.

**Mr. Lawlor:** Hear, hear!

**Mrs. Campbell:** Mr. Chairman, I endorse what Mr. Renwick has said. I would perhaps draw the attention of the Attorney General to some slight discussion with the minister in the condominium committee hearings, when there was a suggestion that some matters there could be referred to the small claims court. The minister of the day was quite firm about not wanting to proceed in that way. Since he is a colleague, it might be useful for some discussion. Certainly I was of the same opinion at that time. It may be that, with some changes, we might effect some con-

ciliatory aspects in the condominium route, but I have grave concerns if the court is simply to be what in a sense it is today, a small claims court; I don't think it is too effective for the types of litigation that would be foreseen in increasing the jurisdiction.

I wonder to what extent we are limited on the constitutional questions by this approach. Have we anything before us to know how far we can go and how we can proceed within the ambit of the constitution?

**Hon. Mr. McMurtry:** Under the present constitution there are certain constitutional impediments in relation to monetary jurisdiction and subject matter. I'm not sure what the cutoff point might be so far as monetary jurisdiction is concerned. I am trying to recall the precise wording, I guess in section 96, dealing with section 96 appointments. I know it talks about major property matters; I'm not sure just what it says in relation to the monetary jurisdiction at this point in time. But there is a constitutional issue.

[12:00]

**Mr. Leal:** Section 96 of the British North America Act simply indicates, Mr. Chairman, that the judges appointed by the federal administration are to be appointed by the Governor General in Council. The case law has made it very clear that, as in the adoption cases, there is a very clear limit on the jurisdiction which provincially appointed judges may exercise. Of course, that's the great problem we face now with regard to the unified family court.

**Mr. Renwick:** With the devaluation of the dollar, the problem may disappear.

**Mr. Lawlor:** I don't know how far we should go with that today. What you are suggesting is that there would be two levels of judges in this court, senior judges and junior judges. As to what the qualification to be junior is, I think there are all kinds of internal problems. In a way I welcome it, because for many years past a number of us on this committee have felt that the small claims court—only two areas of the administration of justice in this province remain outside the direct ambit of the Ministry of Attorney General, namely, court reporters—many court reporters—on one side of the fence, and the small claims courts, which are the last vestiges of private enterprise in a justice system, on the other.

Whatever one may think of private enterprise, affirmatively or otherwise, the justice system is not well accommodated thereto. It's a common-good concept, and there must be direct and immediate control. True, the inspector of legal offices looks at these

courts, examines their records, sifts off the top layer of returns—he does a number of things. I take it what you are seeking to do here is to bring it within your direct and immediate ambit so that the justice system is governmental in its operations; that is, beholden to the whole people and not serving the interests, whether it's done generously or not, of a rump.

Of course, you would have to increase the range of the county court at this stage. While that range is unlimited with respect to consent in certain matters, there is still a monetary delimitation. I think that would please the county court judges quite a bit. It would place them with unlimited jurisdiction—in parity, in that sense, with the Supreme Court. If you're going to move up the jurisdiction at one end, I think you may as well lift it, and the lawyers will decide which court they want to resort to in the particular kind of case involved. The judges are fairly well of equal competence, in my opinion, in both instances. Some county court judges are better than the Supreme Court judges, and vice versa.

Whether you would permit lawyers to appear, or whether you would exclude lawyers from the lower echelon of that court—the \$1,000—should be considered. It would be a very good idea. I suspect that, after you reach \$1,000, the legal profession will somehow be presented.

Finally, what you've indicated as the move towards arbitrament rather than adversarial relationships—not on a European model but on a model which we have well established here in our numerous tribunals—seems to me a cost-saving feature. Whether the judge of that court would—I'm thinking of him more in the role of an arbitrator, as our present judges are; in other words, he enters into it a great deal more closely—whether he would be operating in the lines of conciliation or whether a conciliation officer would simply assist him, nevertheless a different cast of mind would operate.

If it operated, then, it would obviate to a very considerable extent the necessity of legal counsel in these small claims, and I would include, at the moment, under \$3,000. If they felt the role of the judge would be sufficiently inquisitive, not inquisitorial, with respect to the matter and forfend for their interests, et cetera, then again there would be enormous savings involved. Whether or not legal aid would be part of that is another matter to consider, I suppose, as it gets further on.

I would ask the Attorney General, as this concept develops in his department and

there are position papers which he feels would be of assistance, without prejudicing his interests to let the members of this committee who have indicated an interest peruse and watch, and maybe even contribute to that ongoing development.

**Hon. Mr. McMurtry:** Yes, I would certainly be very happy to share any of this material that I have that would be of interest. At this point in time, I just don't know what we have. I have harboured some of these thoughts for a long time. There has been very interesting reading in certain American publications regarding the development of their so-called small claims courts or tribunals. I will ask my policy advisers what can be made available; and I would make it very clear, Mr. Chairman, that I welcome very much the suggestions of any members of the committee as we go down the road.

I'm depending on the resources that might be available, I should say the whole project is pretty dependent on it. If we're going to move ahead, I would like to see such a court in place a year from now.

I should mention that as a further aspect of our commitment to greater accessibility, we are opening night courts in the small claims court, in four courts in the judicial district of York, the first, eighth, ninth and twelfth. We will probably start with a limited jurisdiction, probably around \$200, in order to give people an opportunity of litigating their claims for that amount without taking the time off from work. Our target date is January of 1979.

**Mr. Stong:** Does that go for weekends too?

**Hon. Mr. McMurtry:** I don't think so. I think it is just during the week.

**Mr. Chairman:** Anything else on item 1?

**Mr. Lawlor:** I can't let it go by without just mentioning it, although I don't wish to either actively or passively suffer the debated merger, I suppose our problems are sufficiently gargantuan to exclude that. Is there much left on that, or is that a rankling sore that bothers you in your department, these courts, the county court judges?

**Hon. Mr. McMurtry:** It certainly is not a rankling sore that bothers me. It's an interesting concept, one that I suppose is receiving a certain degree of momentum by reason of what's happening in other provinces. Alberta and New Brunswick, for example, I think are on the verge of merging their courts. I think both governments have announced their intention to go ahead. I think they are moving ahead fairly rapidly in Alberta. I think in New Brunswick they went ahead

very boldly and are dragging their feet a little bit at the moment, but I'm not sure of that.

**Mr. Leal:** Prince Edward Island did; New Brunswick has the legislation.

**Hon. Mr. McMurtry:** I don't think they're moving too expeditiously on the legislation in New Brunswick. Prince Edward Island is moving in this direction, but I'm afraid the experience in Prince Edward Island isn't overly helpful to us in Ontario so far as the administration of justice is concerned.

**Mrs. Campbell:** It could be equated to the metropolitan area.

**Mr. Leal:** East York.

**Hon. Mr. McMurtry:** There are no plans at the present time to merge the courts.

**Mr. Lawlor:** It's still there and you're still being pressed?

**Hon. Mr. McMurtry:** I have to say there are obviously some county court judges very interested in it, but there are quite a number of county court judges who at least informally have advised me that they're less than enthusiastic and are somewhat wary of the concept, so it's not really a juggernaut that is developing at the county court level.

**Mr. Lawlor:** Thank heaven something's somewhat quiescent. On the figures, this is a roller-coaster item. I mean it hits great heights on estimates and in actual fact it tends to go down. I am looking at the figures for 1976-77, at \$2.8 million; and then actual expenditure was pretty much as it is proposed to be today, namely about \$600,000. The estimates last year sent it back up again to in excess of \$2 million and now it's back down again. I believe it has something to do with the detention homes, but I'm not sure how or why. Was it taken out of your estimate and put into Comsoc or something like that?

**Mr. Leal:** I wonder, Mr. Chairman, if we might have Mr. Lawlor indicate the page he's on.

**Mr. Lawlor:** I'm looking at the top of page 50, the first item there.

**Mr. Leal:** I think I can offer a partial solution or a partial explanation to the differential between the 1978-79 estimates of \$674,600 with the 1977-78 estimates of \$2,019,200. There was an item in there, Mr. Chairman, of \$1.2 million which is now included in item 1306(5). I would direct the attention of the member for Lakeshore to the item of provincial courts which appears there and he will see that the 1976-77 actual and estimates is about \$35 million. That was increased by \$1.2 million and it appears as

\$38.4 million in 1977-78. That includes the item of \$1.2 million on Metfors.

**Mr. Lawlor:** On what?

**Mr. Leal:** The Metropolitan Toronto Forensic Service clinic, which is the psychiatric assessment facility set up in part of the premises at 999 Queen Street to do short-term psychiatric assessments on offenders before the provincial and other courts.

[12:15]

**Mr. Lawlor:** I'm sorry, are you saying it's now encompassed within item 5?

**Mr. Leal:** Yes, Mr. Chairman.

**Mr. Lawlor:** So that's why it jumps so much.

**Mr. Leal:** Yes.

**Mr. Lawlor:** That's all for the minute as far as I'm concerned.

**Mrs. Campbell:** Going to the matter of the forensic clinic at 999; do we still have the forensic clinic started by Dr. Gray as the result of the parents action league matter?

**Mr. Leal:** At the Clarke Institute of Psychiatry.

**Mrs. Campbell:** It's still functioning through the Clarke? That's what I wondered, because that was an interesting development in its time.

I don't know where my next question properly falls. I think it's a matter under administration. What do you undertake by way of training for officials in areas outside Toronto, court officials who are locally situated, in the Supreme Court area particularly? In the past you've had a great variance in the quality of the officials and I have always wondered what you were doing about trying to train people so there wouldn't be that kind of inadequacy in some cases. Is there a training program?

**Hon. Mr. McMurtry:** I can't give you the details of that. I'll turn to one of my advisers in a moment, but at the present time a lot of people are hired at a relatively junior level and receive on-the-job training, working their way up through the system. A very large number of the orders in council appointments are made from people within the system who worked their way up rather than bringing in people from outside. There is some form of training but I can't give you the specifics.

**Mr. Leal:** It would be fair to say, in answer to the honourable member's question, that we do have training programs at all levels of the courts. For example, we have seminars for crown attorneys and their staff; I'm just informed that last year, we had 24 seminars



for officials and their staff in the court system. To my personal knowledge we do meet with the associations, for example the sheriff and registrars' associations, on a regular basis and deal with the problems. Seminars are arranged through those associations for our court staff, and there are a number of them. These are directed at updating, as well as orienting people in the first instance to their new duties.

**Mrs. Campbell:** I was thinking primarily of a situation I found myself in some time ago, and I'm hoping it won't occur again. The written order was not in question, but the document that indicated what the order was, was an absolute farce. The registrar in Toronto couldn't believe that such an order could have been accepted in another area of the province. We had quite a difficult time moving to set aside the written document without setting aside the order itself; it took a great deal of discussion in the courts. We finally did it but it was an endless kind of thing. Somebody ought to have some idea of what kind of order or judgement is acceptable since it affects so many people. If that is now being done I am very happy to hear it, because I think there has been a lot of injustice in the past across the province by reason of inexperience and lack of training.

**Hon. Mr. McMurtry:** Considering the number of active files there are at the various levels of the court, and the hundreds—indeed millions I suppose—of transactions of one kind or another that occur throughout our court system, I think remarkably few complaints reach the ministry or are sent to the ministry. I'm sure in any human endeavour there are going to be foulups, but I personally am impressed by the fact that, although I receive complaints from time to time, they are remarkably few in number considering the enormous volume that is handled by these officials.

The Deputy Attorney General is just making the point in respect to this particular problem that, if you can give us further details, we will be happy to pursue it for you.

**Mrs. Campbell:** It has passed, but it didn't occur to me to go to the Attorney General, it occurred to me to go through the courts and try to rectify the darned thing.

I don't have anything more, **Mr. Chairman**, until we come to the divisional court.

Item 1 agreed to.

On item 2, Supreme Court of Ontario.

**Mr. Lawlor:** On page 55, there is mention of family law commissioners' fees and travel allowances. I don't quite understand why

that's in this particular vote. Could you explain that to me?

**Mr. Leal:** I'm sorry; would you be good enough to repeat the question?

**Mr. Lawlor:** On page 55, in your explanatory column, you mention a sum of \$35,600 for family law commissioners' fees. Up above that, there is travel expenses. Why is it in this particular vote? I would have thought maybe it would be under—

**Mr. Leal:** Do you mean the family law commissioners' travel, Mr. Lawlor?

**Mr. Lawlor:** No, the fees themselves.

**Mr. Leal:** I'm not sure that I have the question yet, but if the question is, why are family law commissioners' fees included under the Supreme Court of Ontario item, the fact is that the family law commissioners are part of the personnel of the Supreme Court of Ontario. In fact, they are supernumerary judges of the Supreme Court of Ontario—all but one, and that's Mrs. Speigel. They are used with regard to the pretrial procedures in matrimonial causes in the Supreme Court of Ontario. The reason it appears under services there rather than salaries is that they are not part of the complement. They are employed on a per diem basis. There are, in fact, five of them.

**Mr. Lawlor:** I see.

**Mrs. Campbell:** Where in all of these estimates would you reflect what must be ongoing discussions on the matter of taxation resulting from our family law package? That, I presume, is not in this vote.

**Mr. Leal:** No, it is not in this vote. But perhaps I can be helpful to the honourable member by saying that I have headed a team of people from provincial administrations meeting with the representatives of the Department of Justice, the Department of Finance and the Department of National Revenue in Ottawa, in order to arrive at amendments to the Income Tax Act to accommodate the changes that have been made in our family law legislation, not only in Ontario, but in other provinces as well.

There was a change made in the act with regard to the rollover provision in the last session of Parliament. We will be going to Ottawa on December 4, I think it is, to meet with them again and to push two more items: first, to have the support obligation payments with regard to common-law unions recognized as deductible before tax; and second, to deal with the position of what formerly were referred to as illegitimate children. Both of those are still unsatisfactory under existing federal tax legislation. We

have prepared a brief and are going to Ottawa to seek further changes.

**Mrs. Campbell:** I shouldn't labour it in this vote, but I am concerned because there seems to be a growing apprehension among tax people that we may be getting into a very serious situation as a result of the passing of the family law legislation. It concerns me greatly that we shouldn't have anything to add to any confusion in this area at this time.

**Hon. Mr. McMurtry:** Any influence you may have—and I assume you have some—

**Mrs. Campbell:** I have none—absolutely none.

**Hon. Mr. McMurtry:** —we'd appreciate it if it could be directed towards our colleagues in Ottawa.

**Mrs. Campbell:** I'm always amused when people are referred to as "my friends." I'd like to know how you get them to answer a letter, I'll be frank with you.

**Mr. Lawlor:** You're too modest.

**Mrs. Campbell:** I'm a realist.

**Mr. Lawlor:** On page 59, does the Supreme Court still do its accounts on an annual basis rather than on a fiscal basis?

**Mr. McLoughlin:** No.

**Mr. Lawlor:** Why, then, does the statement of revenue and disbursements end at December 31, 1977?

**Mr. Leal:** I regret to say that I have no idea, but I will try to find out.

I am informed by Mr. Gibbs, who is the director of our financial division, that the report to which the member for Lakeshore referred is prepared in the local office simply for information; it's absorbed into our accounts, but it is taken on our fiscal year basis.

**Mr. Lawlor:** It's adjusted to your fiscal year basis?

**Mr. Leal:** Yes.

**Mr. Lawlor:** Another question on this area—you sure are making a lot of money out of bankruptcy. My question is: Do you keep those fees? Or is that federal?

**Mr. Leal:** I think there are certain fees which are paid in the bankruptcy court that flow to bankruptcy registrar in Ottawa, but I'm not sure that any of these are in that category.

**Mr. Lawlor:** These are fees levied and collectible by the province of Ontario for the administration of that particular court?

**Mr. Leal:** Yes, it is staffed by provincial personnel, including the judge, who is always a member of the trial division of the Supreme

Court of Ontario. Mind you Ottawa pays his salary because he—

**Mr. Lawlor:** That's Lloyd Holden, isn't it?

**Mr. Leal:** It was. It has now been changed, because Mr. Justice Holden went to the Court of Appeal.

**Mr. Lawlor:** Oh yes. They are quite startling increases, that's all.

**Mr. Leal:** Yes.

**Mr. Ziemba:** Mr. Chairman, could we get the numbers of bankruptcies for years 1974 to 1977? Not now, but—

**Mr. Leal:** I am sure those figures are available, Mr. Chairman. Perhaps I can get them for the member for High Park-Swansea. Was it for 1974 to 1977?

[12:30]

**Mr. Ziemba:** Yes, that's what "fees collected" represents, so I'd like to know how many bankruptcies were involved.

**Mr. Chairman:** Further questions on item 2?

**Mr. Lawlor:** Bear with me for a moment, because this is an omnivorous item. It covers all the appeal courts. I think that's all I want to deal with.

**Mrs. Campbell:** I just wanted to discuss briefly the matter of the divisional court. The member—forgive me, I still never remember people's ridings—but George Taylor, let's put it frankly, was somewhat critical in committee on the matter of the divisional court as it reflected on practice outside of Toronto. I wondered if the Attorney General would care to comment on any possible changes that might make this more accessible to people referred to by that member as people in the boondocks.

**Hon. Mr. McMurtry:** This has been an ongoing concern of ours. I guess the divisional court outside of Toronto sits, I know, in Ottawa and London. Does it sit in Hamilton?

**Mr. Leal:** Yes.

**Hon. Mr. McMurtry:** We, of course, have been in active discussion with the judiciary, the chief justices of the Supreme Court, in relation to some form of regionalization of the Supreme Court, including the divisional court, in order to establish a greater degree of accessibility. It's a very complicated matter. Of course, although one would like the divisional court to be sitting in Barrie from time to time, it really wouldn't be a cost saving to the litigants because most of the lawyers would be coming up from Toronto.

I should say that the practice before the divisional court is a relatively specialized practice and, for better or for worse, a great

majority of the counsel who appear before the divisional court are from the Toronto area, or the Ottawa area, the London area, and Hamilton, where the court does sit. Of course, the chief justice of Ontario and the chief justices of the High Court have the ultimate decision as to the administration of the court in respect to where the court sits.

True, we could provide for sittings through legislation, but I have heard very little in the way of complaints from the bar in relation to where the divisional court sits. We're talking about a court where witnesses, as you know, do not appear in front of that court. The evidence, to my knowledge, is usually by affidavit, so I don't think there's really a great problem there. We're more concerned about the overall problem of accessibility to the Supreme Court trial division generally.

**Mrs. Campbell:** I raised it because that discussion took place in the Ombudsman committee. Obviously there were matters that were referred to that court, and I just felt perhaps if you hadn't heard complaints you might speak with your colleague.

**Hon. Mr. McMurtry:** The divisional court had to handle a very contentious matter dealing with the Barrie annexation, as you know. That matter was argued recently before the court of appeal. There have been some complaints in relation to delays in the divisional court, quite apart from where they're sitting, and we're looking very hard at the jurisdiction of the divisional court to see if we can't speed up the process.

**Mrs. Campbell:** As I recall it—and I could be wrong—the burden of his song was not the matter of delays but the matter of accessibility. I thought I should raise it here, because we have dealt with accessibility in so many other areas; it would be a pity if the bar felt they were disadvantaged if they lived in Barrie.

**Hon. Mr. McMurtry:** Interestingly enough, I'm only speculating I suppose, but I rather suspect that his concerns were related to Barrie annexation.

**Mrs. Campbell:** That wasn't discussed at all.

**Hon. Mr. McMurtry:** There was a long hearing before the Ontario Municipal Board in Barrie and it was pretty good for the local tourist industry, as virtually all counsel were from the Toronto area. Counsel I'm sure contributed to the local economy, as well as perhaps raising the temperature in the region from time to time.

**Mrs. Campbell:** I wouldn't like it to be taken that that was what Mr. Taylor raised.

It was raised in connection with certain applications before the divisional court and certain procedures relating to some of the items under discussion, which had absolutely nothing to do with the Barrie annexation matter.

Item 2 agreed to.

On item 3, county and district courts:

**Mr. Bradley:** This seems an appropriate time to remind the Attorney General, as I know he is well aware from his colleague in cabinet and the member for Brock (Mr. Welch), of the great need for a new courthouse facility for Niagara north, which would be located in the city of St. Catharines.

I made a rather lengthy speech in the House on November 25, 1977, during the estimates of the Attorney General at that time, and I have hounded the Attorney General and the Minister of Government Services (Mr. Henderson), as well as the Premier (Mr. Davis), during question period and with letters concerning this. It's not something that is new to the Attorney General. I think he expressed at that time some considerable sympathy with the need, not only in the district of Niagara North but also across the province. We've seen this need since back about 1935 in our particular area.

I recognize it's not necessarily a priority in terms of government expenditures. I don't think the public at large is knocking at your door and demanding that you immediately insist that the Ministry of Government Services construct a courthouse. I think if I were to go door-to-door in St. Catharines it would probably be listed about 32 on a list of problems to the average citizen in that area.

**Hon. Mr. McMurtry:** A list of 31.

**Mr. Bradley:** Nevertheless, the conditions have been condemned by I think over 15 different grand juries. I was reading through Hansard and noticed that the member for Lakeshore (Mr. Lawlor) suggested at that time that's why they got rid of grand juries, because they used to bring forward rather embarrassing reports.

**Hon. Mr. McMurtry:** I regard it as a priority in relation to government expenditure. The priorities of the Attorney General, regrettably, are not necessarily always the priorities of the government as a whole. I expect there will be some very positive statements made in relation to the St. Catharines courthouse in the near future.

It really is regarded as a top priority in so far as capital expenditure in this ministry is concerned, there's no question about that. I've met in the last few weeks with representatives from the local bar in the area to



once again discuss their concerns. I expect we will have something more positive to say very shortly. There has been further discussion recently between the Ministry of Government Services and the Provincial Secretary for Justice (Mr. Welch) in relation to the matter and I, by reason of some other commitments, have not been privy to those discussions. But I know the Provincial Secretary for Justice is remaining very active in the pursuit of the courthouse for St. Catharines, and there is no higher priority in the province so far as courthouses are concerned.

**Mr. Bradley:** One of the encouraging signs I see is a withdrawal of tenders from the Ministry of Government Services. They advertised for tenders for 15,000 square feet of provincial court space in the downtown area of St. Catharines at a five-year renewable lease. A lot of concern was expressed at that particular time about this development; what raises optimism as far as I'm concerned is the fact that the Minister of Government Services has apparently cancelled that call for tenders. We in the area recognize it as part of the downtown revitalization program. You met in 1977 with certain members of the downtown revitalization task force and assured them at that time you did see it as a very high priority. We also note that the present justice facilities are scattered across the city and probably would be better located in one building. I won't go into great detail, because you and ministry officials know the conditions that exist and it would be redundant on my part to continue to put those before this committee.

I would say, however, that I would be hopeful that the visit of the Premier of the province to the city of St. Catharines on December 4 would be an appropriate occasion for the Premier to make an announcement which would bring a smile, not only to the face of the local member but I'm sure to the Attorney General as well.

**Hon. Mr. McMurtry:** I'm not in a position to speculate as to what that visit will bring because I obviously don't know. I'm just not sure whether you're expressing concern in relation to the withdrawal of the tenders or what your position is.

**Mr. Bradley:** I'm expressing optimism, I'm optimistic. I was concerned when the tenders appeared in the newspaper because it looked as though we were going to postpone the construction of the courthouse for some time. The fact that the tenders apparently have been withdrawn is reason for optimism.

**Hon. Mr. McMurtry:** I see, thank you.

**Mr. Ziemba:** Supplementary, Mr. Chairman.

**Mr. Chairman:** Do you want a courthouse too?

**Mr. Ziemba:** No; we don't have any and we don't want one either. I'm just curious whether the government leases space in buildings for county courtrooms or does it own all the buildings in which county courts are located?

**Hon. Mr. McMurtry:** I'm sure we lease some space in relation to county courts. I think the great majority of county courtrooms are located in areas where we actually own the building. A very high percentage of the county courtrooms are in government-owned facilities. But we are not opposed to the concept of leasing space. Naturally, I would like to see integrated court facilities built where they are needed throughout the province, because I believe the presence of a courthouse is of legitimate symbolic importance, as well as fulfilling the utilitarian needs with respect to processing these cases.

The symbol for justice, identifiable in the community, is important. But I suspect in certain areas we're forced to lease courtrooms at the county court level, although I can't give you any figures. It would be a pretty small percentage of our overall target for space, I would think.

[12:45]

**Mr. Leal:** It depends, Mr. Minister, on what the question really was. I say that because when the provincial administration took over the total administration of the courts in 1968, the so-called McNaughton formula was worked out by which these county court buildings were leased to the provincial court for \$1 a foot, I think. To that extent, as the honourable member will appreciate, most of the buildings are leased from the county to the provincial government.

**Mr. Ziemba:** In the same way that the jails are?

**Mr. Leal:** Yes, exactly. But in addition to that, in some of our courts—not the county courts but in some of the courts—the Ministry of Government Services actually does lease premises from the private sector rather than have a capital outlay of its own.

**Hon. Mr. McMurtry:** I guess that was the distinction I was making between the private and the public sector, as opposed to—

**Mr. Ziemba:** That was basically my question, Mr. Chairman. I know in my riding you do lease the Legion hall for the small claims court. It's quite a nice atmosphere, very informal; I don't know if it takes away from the symbolism of justice—

**Mr. Leal:** The courts have a bar.

**Hon. Mr. McMurtry:** Is it the same Legion hall that fought those cases for many years? I can think of many interesting days I spent there myself. Is it the same Legion hall?

**An hon. member:** No, not now.

**Hon. Mr. McMurtry:** Not now? Oh, dear.

**Mr. Leal:** Mr. Chairman, while we are addressing the answer to Mr. Ziembra, I wonder if he could accept the reply to the question he asked about bankruptcies. My executive counsel informs me that in 1974 Ontario had 1,155 bankruptcies—these are commercial failures, sir—in 1975, 1,010; in 1976, 1,310; and in 1977, 1,596. I also have the national totals if that would be of interest to the honourable member.

**Mr. Ziembra:** It was bankruptcies that I was interested in. Thank you.

**Mr. Chairman:** Further questions on this item? Mr. Lawlor?

**Mr. Lawlor:** At page 69, the last item, cases remaining in York, there is no figure at all for 1976-77; but for the next following year it's 1,600, double the last previous figure. Was a task force formed and did they clean out the criminal cases in the county court in that year, 1976-77?

**Mr. Leal:** If Mr. Lawlor will bear with us for a moment, I am trying to get the answer to that question.

**Mr. Lawlor:** You will agree it's kind of curious.

**Mr. Leal:** There's an obvious gap there. I don't know whether that means they did what you suggest or just that the information hasn't been filled in. I'm informed that the information was not available at the time that this report was compiled, but we will get it for you, Mr. Lawlor.

**Mr. Lawlor:** One other question, with respect to page 67; judgements and orders in that court, civil side. The question has to do with the new landlord and tenant law coming through and the separate and distinctive body being formed. Have you any idea of what alleviation is going to be afforded to the county court, in terms of cases and volume, as a result of the new legislation?

**Mr. Leal:** I agree, with respect, with what the minister has just said; it would be substantial. I haven't got the figures. Let's see if they're available, sir. May we get that figure to you?

**Mr. Lawlor:** Yes, I would like to find that out. I would just like to know how much of a help that is going to be.

**Mr. Chairman:** Further questions?

**Mr. Lawlor:** At page 71, are you directly responsible for the operation of sheriffs' offices?

**Mr. Leal:** Yes.

**Mr. Lawlor:** I'm not too happy with the running of the local ones.

**Mr. Leal:** With us or them?

**Mr. Lawlor:** Why the breaks during the day for a fairly lengthy period—from 12 noon to 2 o'clock or something—when, for instance, executions may not be taken through the computer, or whatever that instrument of torture is that they have in the various offices; or, if you attend upon that office personally and directly within the courthouse, no staff is available during certain hours of the day? I don't want to be too tough, but this is in addition to the coffee breaks and other forms of non-attendance.

The answer of the sheriff apparently is, "The profession should have the perspicacity to come in a day or two ahead of time and check these things out." But that's not the nature of the profession, as I see it. We do attend when we have to, and we anticipate some kind of response. After all, you're paying a fairly good chunk for those executions these days. If you don't pay very promptly, you're told—I've been told.

Cannot some pressure be brought to bear in order to give continuity through the working day? That information is vital. You can't close a transaction—practically any transaction—without it. Even in chattel transactions we check to make sure we're not up against—but certainly with real property.

They're very often solicitous, to my knowledge. They complain to me. Every time I go into the building somebody buttonholes me and says, "Why is this shut down?" I say, "Talk to McMurtry." I say, "Do you ever write him a letter?" "Well, we expect you fellows to do something on occasion." This is the tenor of the conversation.

The situation hasn't improved, although I've raised the point—not with you, but with another minister whom I thought was in charge there—in some previous years. Anyway, it is a complaint.

**Mr. Leal:** We'll look into it to see if the staff can take staggered lunch hours in order to have the office open.

**Mr. Lawlor:** If you have to put a transaction over to the following day in order to obtain your executions, you could very well run into actions for specific performance and a whole host of unnecessary problems in terms of increasing the court loads and certainly increasing the amount of tension that

is visited upon the members of the profession in this area.

**Mr. Leal:** We'll have a look at it, Mr. Chairman.

May I give the reply to the member for Lakeshore with regard to the landlord and tenant applications? These figures are for 1977-78. For the whole of the province, there were 10,572 applications for resolution of the problem and 8,956 dispositions. In the judicial district of York, there were 6,230 appointments made and 5,392 dispositions.

**Mr. Lawlor:** It is substantial.

**Mr. Leal:** Yes, it is substantial.

Item 3 agreed to.

On item 4, small claims courts:

**Mr. Chairman:** I think we've covered item 4 in part under another vote. I'm not quite sure how. But in any case—

**Hon. Mr. McMurtry:** We've talked quite a bit about the small claims courts.

Item 4 agreed to.

On item 5, provincial courts:

**Mr. Lawlor:** May I bring my local problem to you and petition you? It is a terrifying thing. You have a new provincial court on the West Mall in Etobicoke; you entered into a lease there, and apparently whoever looked at this didn't look carefully enough, because the parking facilities for people going into the court expired one year after the court opened and now there is no parking; and that is a very busy court.

The lot on which the parking was done is owned by various industries around there. I don't blame the industries. They were unable, because of the parking problem, to accommodate their own customers. There are four or five industries that have shared facilities and they now have outright ownership over the parking facilities.

What happens is that numerous green hornets, or whatever they are called, line up at the door—I am exaggerating in my usual hyperbolic fashion—then as the court gets under way in the morning they go and ticket all the cars, so that not only are you in the court in order to attend to whatever the infraction happened to be but you are also acquiring new ones while you are there.

**Hon. Mr. McMurtry:** That is where we got the revenue.

**Mr. Lawlor:** I know, McMurtry, but you don't have to twist the knot. You come out of a courtroom, you have been fined once already and have just finished paying it and you see the \$10 ticket facing you again. People want to buy books in this province, they don't want to put money in that kind of thing.

**Hon. Mr. McMurtry:** We will look into that. As you know, these matters are looked after by Government Services. We apparently were not aware of the problem, but we will look into it and get back to you on it.

**Mrs. Campbell:** In a case like that would you not be looking at the lease through one of your crown law officers or something?

**Hon. Mr. McMurtry:** Maybe someone in the common legal services. I assume there would be someone from common legal services attached to Government Services who probably would look at the lease, yes.

**Mrs. Campbell:** Maybe some of the crown law officers should be getting out and around to see some of the practical problems they create.

Item 5 agreed to.

Vote 1306 agreed to.

The committee adjourned at 12:58 p.m.

#### ERRATUM

No.	Page	Column	Line	Should read:
J-14	J-344	2	11	stuck with a big bill because of this unruly



## CONTENTS

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	Friday, November 17, 1978
<b>Court administration program</b> .....	J-445
Program administration .....	J-445
Supreme Court of Ontario .....	J-449
County and district courts .....	J-451
Small claims courts .....	J-454
Provincial courts .....	J-454
<b>Adjournment</b> .....	J-454
<b>Erratum</b> .....	J-454

## SPEAKERS IN THIS ISSUE

---

Bradley, J. (St. Catharines L)  
 Campbell, M. (St. George L)  
 Lawlor, P. D. (Lakeshore NDP)  
 McMurtry, Hon. R.; Attorney General and Solicitor General (Eglinton PC)  
 Renwick, J. A. (Riverdale NDP)  
 Stong, A. (York Centre L)  
 Ziemba, E. (High Park-Swansea NDP)

### **From the Ministry of the Attorney General:**

Leal, H. A., Deputy Attorney General  
 McLoughlin, B. W., Assistant Deputy Attorney General and Director of Courts Administration











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# Legislature of Ontario Debates

## Official Report (Hansard) Daily Edition

### **Administration of Justice Committee**

Estimates, Ministry of the Attorney General

**Second Session, 31st Parliament**

Wednesday, November 22, 1978

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

## CONTENTS

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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# LEGISLATURE OF ONTARIO

WEDNESDAY, NOVEMBER 22, 1978

The committee met at 10:17 a.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

**Mr. Chairman:** I am going to recognize a quorum and call the committee to order. We will have two substitutions: Mr. Turner for Mr. Cureatz and Mr. Hennessy for Mr. Eaton.

On vote 1307, administrative tribunals program; item 1, assessment review court:

**Mr. Chairman:** We are on vote 1307, and we have one hour and 56 minutes left in the consideration of the Attorney General's estimates.

Does the Attorney General have any questions or any reports he wanted to make before we start our questioning?

**Hon. Mr. McMurtry:** I have a report on the East Mall parking. I haven't read the report, but it might save time if I were simply to read it and perhaps later on synopsise it for the members who are interested.

**Mrs. Campbell:** I believe it was Mr. Lawlor who raised it.

**Hon. Mr. McMurtry:** It was Mr. Lawlor who raised it; he'll be here shortly, I expect. Apart from that, I don't have anything.

**Mr. Chairman:** Mrs. Campbell?

**Mrs. Campbell:** We are getting into this matter of the administrative tribunals. I wonder how you wish us to proceed. I have some general concerns. Do you want us to go tribunal by tribunal?

**Mr. Chairman:** That may be the easiest way of doing it.

**Mrs. Campbell:** Okay.

With reference to the assessment review court, first of all, could you tell me what we're talking about in this item with respect to salaries and wages? What are the salaries? I thought you had sort of a stipend arrangement here. Am I wrong?

**Mr. Leal:** The complement appears at the bottom of the chart. There is a total of 61 classified positions. In addition to that, as the assessment review court moves about the province, it picks up part-time people who are reimbursed on a per diem basis.

The difference between the \$1,235,200 in the estimates for last year and the actual expenditure, an underexpenditure of \$300,000, was taken out of salaries and used for services to cover an increased expenditure there or a shortfall in funding. It was just a transfer there.

**Mrs. Campbell:** You didn't just cut off salaries?

**Mr. Leal:** No. My colleague Mr. Hilton tells me there is a substantial clerical staff involved in arranging these hearings, which are sort of a first run at expropriation, if you like, and assessment review. I don't think I can be more helpful than that, Mrs. Campbell.

**Mrs. Campbell:** What is the experience in the last little while as to any major increases in hearings? Certainly I have been inviting all my tenants to get involved in these assessment reviews, because I feel they are badly overassessed, and I am wondering if they are beginning to show up. They are?

That would be since the condominium case, I would think, because my view was that the condominium decision really opened the door to tenants to be able to come in and establish a case.

**Mr. Leal:** Our breakdown shows 127,399 complaints and appeals.

**Mrs. Campbell:** Yes, I see that.

**Mr. Leal:** You will notice they are in three main areas. The first one deals with complaints against assessment under section 40 of the Assessment Act. The second one deals with complaints against additional assessment under sections 42 and 43 of the act. Finally, the third one relates to complaints under sections 516, 547, 636(a) and 636(b) of the Municipal Act, dealing with school support and apportionment of municipal tax; cancellation, reduction or refund of municipal taxes; and an increase in municipal taxes by reason of clerical error. Those are really the three broad heads of jurisdiction.

**Mrs. Campbell:** It didn't indicate to me anywhere that we were reflecting any increase in the tenant applications as opposed—

**Hon. Mr. McMurtry:** It's not broken down.

**Mrs. Campbell:** No. But you say there is a distinct increase.

**Mr. Leal:** The general increase is from approximately 93,000 in 1975 to 127,000 last year. It is roughly 20,000 more cases a year.

**Mrs. Campbell:** I don't want to labour this; it just seems to me that we should give a very hard look at this particular function, not only in view of the tenant matters but also in view of the changes in the assessment itself.

I would trust that we have people with a good deal of expertise in this area. Once upon a time I don't think that was quite the case, if I may put it kindly. We used to have part-time people who came in and did the best they could, but it was a here-to-day-and-gone-tomorrow sort of thing and there was no continuity to it. I would hope we are building that kind of expertise, because I think that right across this province there will be a good deal of unsettling effect with any changes in the assessment.

**Mr. Hilton:** I think it should be noted that no board that we have has as intensive training programs as this. This is made necessary by reason of the part-time composition of the board and the extensive number of members or part-time members required to administer this widespread operation. Accordingly, they seek to stay up and keep their members up in relation to recent decisions by continual seminars. I have no group that works harder at staying abreast of the times.

Granted, with as many people involved as we have, some don't learn as much at a seminar as others—let's put it that way.

**Mrs. Campbell:** It just seems to me that perhaps the Attorney General might be invited to look at this particular function and to see whether some improvements are needed and should be made. I don't know of any function that more closely affects the citizens of this province than the whole matter of assessment. I have always felt that it got rather a poor attention vis-à-vis other kinds of functions.

We are always encouraging the Attorney General to go to cabinet for some more money because I basically feel the justice field has been badly overlooked in the general budgeting of the government. This is one area where I would like to see us strengthen what we have.

**Hon. Mr. McMurtry:** I would just make the comment, which is basically consistent with what the member for St. George has stated, that it is important for the individual citizen to have an understanding of these matters, which are rather complicated and

difficult to understand for the average person and even for the average lawyer.

We have the director of our communications branch of the ministry here, Mr. David Allen. Perhaps this is another area where we may try to develop some type of pamphlet or booklet, similar to what we are doing in other areas, to assist the average citizen in dealing with this type of problem. We will pursue that, Mrs. Campbell, and hopefully have something to report back to you in the not too distant future.

**Mrs. Campbell:** I don't know that I was thinking really in terms of a pamphlet, although any information is useful.

**Hon. Mr. McMurtry:** It is only part of the problem, I might add.

**Mrs. Campbell:** It is just a matter of improving the expertise of those functioning in the assessment field. Apart from the criminal courts, or what used to be called the magistrates' courts, this probably is the one area where most citizens get involved at one time or another. I just don't think enough attention has in the past been paid to this function.

You wanted to answer Mr. Lawlor's question at this point, I guess.

[10:30]

**Hon. Mr. McMurtry:** Yes. The other day Mr. Lawlor inquired about parking for the provincial court criminal division in Etobicoke, which is located at 80 East Mall. I am advised that the term of the lease is 10 years and that as part of the 10-year lease there are 100 parking spaces and that parking is tied in with the lease for the same period. We realize that is not a sufficient number of spaces, because approximately one quarter of those are occupied by court staff, judiciary and police vehicles.

**Mr. Lawlor:** If they are first, of course, they will take all the room. Witnesses and accuseds and others have no room.

**Hon. Mr. McMurtry:** I gather there has been some negotiation with the borough to provide street parking to augment those 100 parking spaces, but I think it is important to point out that they do go with the lease and are not for a shorter period of time.

**Mrs. Campbell:** Mr. Lawlor, are they identified? Is that a possibility, that they are not identified spaces?

**Mr. Lawlor:** No, it's just that there is a shortage of spaces. That is the most gratifying news I have had since the estimates started.

**Hon. Mr. McMurtry:** We just want you to know that we take all of your inquiries most seriously, as we should.

**Mr. Lawlor:** I can see that. I must be careful what I ask.

**Mr. Acting Chairman:** We are on vote 1307, item 1, assessment review courts.

**Mrs. Campbell:** I am sure we are ad idem on this one.

**Mr. Lawlor:** Yes, we are ad idem on this one as far as I am concerned.

**Mr. Acting Chairman:** No questions? If the committee will permit me, I have just one followup question with regard to the brochure that you are considering, Mr. Attorney General. It seems to me there is a formula and if they know the procedures for assessment the people who go through that process have a much easier time of it. I wonder if you could lay out for taxpayers some idea of what arguments they could present when they are appearing before an assessment review court?

I don't know if you have ever appeared before one of those tribunals, but they all have these little pocket calculators, and if it is a commercial property they base the assessment on two and a half times the monthly rent, I think it is, and there are little formulas. If you could canvass these chairmen—I guess that is what they are—to find out what formulas they are using and pass that on to the public it would be most helpful.

There is a whole group of agents who appeal on behalf of taxpayers, mostly commercial taxpayers, and they have that formula down pat. They approach a strip shopping area or an industrial area and they ask the property owners if they would like to be represented at a hearing, and it is strictly a head-hunting operation. They get one third or one half of the first year's taxes that are saved.

It seems to me that people should not have to hire these. That is how it works. They work on a commission basis, and I have met them at hearings, sitting there observing the different techniques that the chairmen use to determine assessments. I think we could do without these so-called tax consultants.

What happens at this point, of course, is the tax burden shifts on to the property-tax owner when the commercial establishments get relief. The taxes have to come from somewhere, and mill rates being the same, the property-tax owners have to make up the difference, and, of course, the consultants aren't interested in appealing their taxes because there isn't enough commission involved.

I wonder if we should come up with a brochure that spells out exactly what people are being assessed on and how they could

check with the tax rolls to see if their taxes are in line with similar properties and all the rest of it. If they have a small commercial business, and two and a half times the monthly rent is what it works out to be, let them know that.

**Hon. Mr. McMurtry:** I will certainly pursue this proposal and see if we can't get something together that will be helpful. I know so little about this field myself, I have to confess. I have appeared before most courts and tribunals, but I've never appeared before this tribunal.

**Mrs. Campbell:** You have been saved a multitude of aggravations, if nothing else. I think my problems have always been with the residential property owners who are really not very clear about the basis of an assessment appeal. They are becoming more expert than they used to be. They certainly couldn't be less expert than they used to be. They went in believing there was something radically wrong, but without sufficient information to make a case. They didn't get the kind of help that ought to be available in a tribunal of this kind.

**Mr. Lawlor:** May I add my voice to the acting chairman's? You're perfectly right. Some kind of criteria, some kind of indicia as to what are the key points to be argued, et cetera should be available to the ordinary citizen. These other people come in fully equipped with massive notebooks, the whole thing. I have never been on that board, but I've been before county court judges on assessments. I remember staying and reading everything I could get with respect to assessment and not having anything very clear or definite. It is a woolly area of law from the point of view of those who aren't clued in.

It's a little like expropriation. There are experts in that field and if you're not, you take a long time gyrating before you're equipped to begin to handle it. But this is even vaguer. Market assessment—what does it mean? You go and check adjoining properties. You have to take photographs to prove the properties are comparable. You go through some kind of rigmarole without being very clear what it is. Then your case usually goes off on some miniscule point that you hadn't anticipated, which one doesn't consider justice.

Some kind of brochure is needed, nothing elaborate, just a page or two—"These are the following considerations that would be effective before this board."

**Mr. Hilton:** Mr. Chairman: if I may, the assessment aspect of this whole matter is a matter of the Ministry of Revenue.



**Mrs. Campbell:** Yes and no.

**Mr. Hilton:** Our function in this is to provide the tribunal, just the same as we provide courts in relation to criminal matters or civil matters. The nature of the evidence that is convincing to the particular person making the adjudication is that which is produced by the various sides.

Accordingly, some of the concerns expressed by the two honourable members who have spoken are matters which, if they were put in a brochure, would be matters provided by the Ministry of Revenue because what you are seeking, as I understand it, is a definition of the basis used for assessment by those who set assessment. Whether co-operation could be obtained from that ministry or not, I do not know.

I do agree that if it could be, it would be helpful, but I submit that it is not entirely within our control to provide that type of information.

**Mrs. Campbell:** I don't think any of us want that.

**Mr. Hilton:** No, I'm merely observing.

**Mrs. Campbell:** I spoke first, as you know, on the matter of the quality of the people administering this particular function, and that is within your ministry.

I have grave concerns about information from Revenue, I must say at this point, because I don't find they're too clear. That's not really a criticism, but I don't think they're too clear about what they're doing in the whole assessment field in this province today. They haven't really studied the effects of this new proposal for Windsor and Sarnia on an area such as Metropolitan Toronto. It irks me when they say, "In theory, it could affect them, but we won't let it." I don't get too much real reassurance from that kind of a statement.

I don't think one should be too theoretical about assessment, I guess is what I'm saying. That, obviously, is not your ministry. I was concerned basically in this vote on the quality of the people administering it.

**Mr. Ziemba:** I would like to reiterate, then, that it seems the chairmen of these assessment tribunals do have criteria they use that is not generally spelled out by the Ministry of Revenue. I've found that out in my own experience, and so have some of my colleagues in other ridings. I would like to know that, and I would like my constituents to know that as well. It has nothing to do with market value assessment or all the old sort of rules of thumb, but they do have definite criteria they look for. As Mr. Lawlor pointed out, you can sometimes get side-

tracked on a minor point and it would be really helpful to my mind, if we had all those minor points spelled out before people appear before such a tribunal.

**Mr. Lawlor:** You wouldn't want everybody to know all that the board knows; it would make the board feel bad.

**Mrs. Campbell:** I have no further comments on this vote.

**Mr. Lawlor:** I'm finished.

Item 1 agreed to.

On item 2, Board of Negotiation:

**Mrs. Campbell:** Under Board of Negotiation, I note we're talking here about a staffing reduction. I wondered, first of all, what are the board members' fees on this board?

**Mr. Hilton:** The per diem? I can't be sure, but I think they're about \$150 a day.

**Mrs. Campbell:** What staff complement do they have?

**Mr. Hilton:** There is one chairman and two secretaries.

**Mrs. Campbell:** I guess we can't reduce it below that very well. I just noted that the number of requests were 148 and the number of meetings was 137. What happened to the balance?

**Mr. Hilton:** That was as of the end of the fiscal year. They are picked up, because they are sometimes cyclical. I was talking to the chairman yesterday. He advised me they are two or three behind at this moment.

He also informed me, and the figures I have so indicate, there's been a substantial increase in the use of this tribunal this year over last which I hadn't expected. He's had more requests currently.

**Mr. Lawlor:** Do you have the figures?

**Mr. Hilton:** No, I haven't those current figures. He just advised me it had increased. It was my thought perhaps they might have decreased, inasmuch as expropriations are decreasing, capital programs in municipalities and expropriating authorities being reduced.

Perhaps people are seeking the services of this tribunal rather than going through a full-dress evaluation. They're having remarkable success. This is a conciliatory, non-binding operation offered to the people; they need not accept the decision.

[10:45]

**Mr. Lawlor:** It's called the "kitchen table conference"—

**Mr. Hilton:** Right.

**Mr. Lawlor:** —quite unscrupulously so, by either knowledgeable or unknowing lawyers.

It is a step they jump over in order to get to the arbitration.

You were even possibly suggesting the scouting of its abolition. If you say that it is being utilized to a greater extent now, there has been a jump, and I can see why. It would be less expensive, and as you say conciliatory in the sense that you can arrive in a fairly expeditious way at a resolution of the central issues of the problem, everybody with their cards on the table, or relatively so, and bring it to a head.

The other procedure is much more elaborate and requires counsel; no doubt mostly on this one counsel appear too, but it has been around a long time and its efficacy has been decreasing over the years, not the other way.

**Mr. Hilton:** Its use has been decreasing, I might say, over the years. On the other hand, at the present moment there seems to be an upswing in activity.

**Mr. Lawlor:** We will give it a shot of adrenalin and see what happens.

**Mrs. Campbell:** But we won't cancel it at this point.

**Mr. Lawlor:** Once more around the track with McMurtry, before he expires.

**Mrs. Campbell:** I can say that I wish it had been used to better advantage than in some of the past cases, because I think Mr. Lawlor and I feel that probably we have incorporated this function with a lot of other functions in another committee. It is unfortunate. If we could avoid some of these very trying matters that go to full confrontation and everything else, it would be helpful.

**Mr. Hilton:** That's their endeavour, of course.

**Mrs. Campbell:** They had a massive failure, may I point out, in one area. I don't know whether anybody went to them, of course. I have nothing further on that.

Item 2 agreed to.

On item 3, Criminal Injuries Compensation Board:

**Mrs. Campbell:** On this one, first of all, there was some talk about eliminating this. Is that still a thought?

**Hon. Mr. McMurtry:** Certainly it is not a thought as far as I am concerned. I can make it very clear to my colleagues here gathered today that I would vigorously oppose any such suggestion.

**Mrs. Campbell:** I was supposed to have a meeting with the chairman of this board and with Mr. Perry to look at the questions that I have raised annually about children, and about the fact that a lot of children don't

seem to have access to this where I think they have rights. Their cases are complicated, but you don't injure somebody just because you shoot them. There are other ways of injuring people for a lifetime and those children's needs are not addressed at all.

What is going to be done about this? I think it is getting to be almost a year since the chairman said he was coming back from Florida and would meet with me. I am sure they have problems, but—

**Hon. Mr. McMurtry:** I spoke to the chairman about matters as recently as this week. I knew you would be very interested in this, so I specifically inquired as to whether they had had any applications in relation to children, and I understand they heard one last week and there is another pending.

**Mr. Hilton:** To be heard this Friday.

**Mrs. Campbell:** How did those applications get to the board? From what source?

**Mr. Hilton:** The two that are now before the board, one came from the Catholic children's aid society, the one that was heard last Friday, and the other one is from the CAS. It is now arranged, and it is part of the child welfare legislation, that information re child battering shall be brought to the attention of the authorities, and that is all being placed through the office of the official guardian.

The official guardian is exercising the determination. It is not a prejudicial thing. He is not determining whether the child should have compensation or not, but whether the child has a case that should be brought before the board. It has been agreed between the chairman and Mr. Perry that that procedure will be used. The official guardian is determining what cases will be brought on before the board and making the representation there. This is the process by which these first two have come to the board, and it is expected it will continue.

**Hon. Mr. McMurtry:** I will certainly indicate to the chairman and to the official guardian, Mrs. Campbell, that you would like to meet with them.

**Mrs. Campbell:** I already know that. I don't know when Mr. Perry gets a minute to meet with anybody, to be honest with you.

**Hon. Mr. McMurtry:** He has a very heavy schedule, but we will remind them of your continuing interest. I am sure a meeting can take place fairly soon.

**Mrs. Campbell:** I am interested in the fact we now have child abuse cases going before the board. Again, it seems to me we act in a very simplistic fashion as far as this board is concerned. I am really thinking of the

child who is the victim of a contributing offence. From the very modest kind of exploration I have done in this field, which I have to say wouldn't stand any scientific test at all because I have neither the time nor really the capability of setting up the methodology for the kind of thing that has to be done, I am convinced that many of these children who have been sexually assaulted as children are children that another ministry in the justice field is dealing with as adults.

It seems to me there is a very direct connection. I have wondered, always, why we couldn't extend the function of the compensation board in order to bring to the child some greater assistance at that very traumatic time, that could perhaps in the long run save us, not only a great deal of dollars but a lot of social problems which we are not addressing.

The board is the only place where I think that can be or could be addressed, if we look beyond what I say is the simplistic approach of this board. It is not their fault. It is the way it is set up.

**Hon. Mr. McMurtry:** They are there and they are accessible to the public. It is the responsibility of those who are dealing with these problems on a day-to-day basis to bring the appropriate cases to the attention of the official guardian so that the matters can be brought to the attention of the board. I know you are not suggesting for a moment that there is any responsibility on the board to seek these cases out. One would hope with the emphasis on the responsibility of individuals to report these cases of child abuse that more of these cases will get to this board.

**Mrs. Campbell:** It seemed to me there should be some kind of procedure, particularly in the family court. I don't think it can ever appropriately be the function of a judge. There are judges with varying opinions, but I don't think it is the function of a judge to take this kind of action, because a judge is sitting in judgement of an adult. It seems to me that if you go beyond that, then you are really putting somebody almost in double jeopardy if you take another step. Yet there should be somebody who does it.

I am delighted if the children's aid are taking this position. Two cases doesn't thrill me I have to tell you, when I think of the volume of cases, I am thinking of the incestuous assaults and this sort of thing. I just would like to see the Attorney General address himself to the ramifications of these

cases and to see whether something better couldn't be made available.

**Hon. Mr. McMurtry:** This is something I probably should discuss with the Minister of Community and Social Services (Mr. Norton).

**Mrs. Campbell:** That's right.

**Hon. Mr. McMurtry:** I will do that, Mrs. Campbell. I realize two swallows or two robins don't make a summer, but I think an important start has been made. I think you appreciate as much as anybody else that one has to be very cautious in dealing with these cases, because the very fact of bringing a child before the board, or asking a child to relive the experience—even if it is not necessarily before the board but in the presence of a psychiatrist or a psychologist or somebody who must present evidence before the board—that in itself can be very damaging.

When one measures what is in the best interest of the child one has to make a very difficult determination, I would assume. I don't pretend to have any particular expertise in this area, but I would assume one has to weigh very carefully the importance of compensation on the one hand, as opposed to a procedure that might simply prolong the trauma—physical, mental or both.

**Mrs. Campbell:** I always thought this was the place where we might begin an experiment in the Israeli style. I know we don't seem to be ready for that in our courts, but it did seem to me that here is a case where we could try it. I discussed the matter with one of the Supreme Court judges in Israel where they have a procedure for courts that keep children out of the courts. It is not an easy philosophy for us to adopt, and yet they follow the common law as we do.

There they have four people, I think, who I suppose are really in a position of each being *amicus curiae*, or something of that nature, in the court. They appear and give evidence to the court itself as to what has happened to a child. The child is not a witness.

There are obvious problems with that in our tradition, but surely in a case of this kind we might take that little, teensy step forward to try it out with the compensation board and follow that pattern there.

**Hon. Mr. McMurtry:** I don't see that presents a difficulty, because this is a tribunal, it is not bound by the strict rules of evidence. Mr. Hilton, who has day-to-day responsibility in respect of the administration of the board will correct my mistake if I misstate this, but my understanding of their function is such that they could entertain an application for compensation without hearing directly from



the child. I don't think that would present a problem, would it?

[11:00]

**Mr. Hilton:** As a matter of fact, in a case that was heard last Friday the board did not see the child at all but merely had medical evidence, Catholic children's aid evidence and the evidence of a parent, or a person standing in loco parentis. I don't know whether that child was adopted or is just in residence with somebody. At any rate the said-to-be father, but not actual father, appeared before the board and gave evidence on Friday, but the child did not.

**Mrs. Campbell:** In the courts themselves, as I have said innumerable times if you have a good crown, a crown who is concerned, if it is humanly possible he develops his case—or she, my experience is with a male crown—in such a way that the child is not a necessary witness in the courts. While that is good on that level, it makes the child invisible for other purposes of assistance.

I have pleaded, I think almost every year since I have been here, for some kind of consideration of that child in our society. I have also sought expansion of the compensation board operation, both on the basis of its available jurisdiction and the fact that I don't think we are talking just in monetary terms. Rather we should bring to the child whatever is needed, if the finding were made, to ensure that child doesn't grow into someone who is so anti-social that we fill up institutions with such children at a later stage.

I guess I am inclined to put the emphasis on money only to try and convince you that if you look at it you will save money; but that, of course, is not my primary concern.

**Mr. Lawlor:** I have a couple of comments. The first has to do with the report. The last report I have before me is a report from April 1976 to April 1, 1977. I am told that the next report—the ninth report—will be available in about a month's time. This eighth report was issued on June 23, 1977, within, I suggest, a reasonable time after the close of the fiscal year.

The prolongation of time renders any new report not very useful from the point of view of Justice estimates, or survey of the work of the Criminal Injuries Compensation Board, and I am going to make a plea that a real effort be made to have these reports ready in the early fall when we normally come on for these estimates.

Sometimes I suspect this report will not be available until 1979. That is hardly satisfactory, from any point of view. The report is not, with respect, all that elaborate. There

are a few pages of introduction and then many cases are set forth, for which we are grateful; and a summary statement of cases, and then some statistics, and so be it. Can anything be done to expedite the preparation and issuance of this report?

**Hon. Mr. McMurtry:** We will take this up with the chairman. I know he is short-staffed. I know that is part of the problem. He really does need additional staff. We haven't been able to get it for him yet. I think the government should provide additional assistance to the board. We will continue to pursue it as we pursue our problems in relation to staffing generally in the whole area of administration of justice.

**Mrs. Campbell:** May I ask, as a supplementary, is there a statutory requirement for this board in reporting?

**Mr. Leal:** No, there is none.

**Mrs. Campbell:** There isn't?

**Mr. Hilton:** And for that reason I think it should be pointed out that report is not a report of all the cases. They are taken, as it says right in the start of the report, as examples; they are at random taking every second file.

**Mr. Lawlor:** I know they are picked out of the air to some extent.

**Mrs. Campbell:** No they're not, they're picked out of a file, Pat.

**Mr. Lawlor:** That's the same thing. The report itself is kind of interesting. It says that "while there will be notice of the statistical schedules, the number of applications has risen from 510 in 1973-74 to 971 during the period covered by this report, 1976-77; an increase of 90 per cent over a three-year period, and an increase over the previous year alone of some 120 applications."

I notice in the information you have supplied to us that hasn't really increased very substantially. The applications under investigation are 1,188 at the present time. On applications received—I take it that's the 1,105 on page 89—you just drop down a bit. They heard 600 cases and they've been hearing about 600 cases in previous years.

The non-appearance of the report, while attributable I take it to shortage of staff, is not particularly attributable to increased volume of work, except that apparently some of the cases are getting longer in their hearing and taking more time. They do mention that; I don't suppose that's a complaint, exactly, but an observation with respect to it.

The awards have increased fairly substantially, from \$900,000 to \$1.4 million. The average award increased from \$1,425 to

\$1,958; and now they're at \$2,328 in the newest situation. In order to recover money, and since there is subrogation of some of the claims, in a very large number of instances the accused or the offender, the one who caused the injury, is unknown and hasn't been located. Of course where they are and where it appears feasible to proceed, the claim is paid and subrogated and then the Attorney General takes over at that point and sues and seeks to recover.

The recovery hasn't been astonishing. The total amount recovered during that fiscal year amounted to \$7,288 of a total awarded of \$1.4 million. Again, the bulk of these cases are nonrecoverable situations. But on the 17 cases that were referred to you—and you had 51 already; that would give you 68 cases altogether—there was total recovery made in relation to 19, partial with respect to six, monthly payments received in regard to 18 others.

The sum you've been able to extract—\$7,200 or \$7,300; you probably have to do it, but considering the time and trouble taken I would ask you how many members of your staff work on these problems. Is there a particular person or are there quite a number? I suspect the salaries paid in order to collect the money are double the amount of the awards—at least double. Maybe you should look at it with respect to doing a cost-benefit analysis, with respect to pursuing some of these awards.

**Hon. Mr. McMurtry:** Obviously the individuals against whom the claims are made are the least likely people in the community to have any resources to pay a judgement. We don't spend a great deal of time on them because it is obvious most of these were not worth pursuing, but we think it important the legislation give the crown the right to pursue people, because it just may happen that in the future there will be people who will be able to reimburse the government. The principle is a sound one, although in practice it obviously hasn't yielded much in the way of recoveries.

**Mrs. Campbell:** It is not one of those self-sustaining items.

**Mr. Lawlor:** You have a statutory mandate and obligation, I suppose, to proceed. If you don't, you are not carrying out your responsibilities as laid down.

Just one other comment, of the eligible applications received, 971 in that period, an amazing number were acceptable. On those statistics, only 63 applications were heard and dismissed. That is a very small per-

centage of dismissals. Some of them are set forth towards the end of the report.

In other words, what seems to happen is that in previous years a number of us have taken exception to the fact that knowledge of this tribunal was not widely disseminated—decimated, disseminated.

God, somebody is being decimated at the moment. I don't know whom. I am getting almost as bad as Albert Roy. I am becoming a philanderer. Oh, if one only could! There is nothing worse than Catholic puritanism; ask Williams, Jansenism makes them all blanch.

I think it is better known and more people are applying is what I am saying; therefore, I don't have to hammer away at that particular point any longer. I suspect, though, the bulk of the cases that come through come through the police or through members of this House, because on several occasions I have had opportunities to do this. I think it may be true to say, generally speaking, that the legal profession isn't too well acquainted with it. People working in the criminal field are, but I just wonder if those working in the civil field are quite so aware of it. Some thought might be given to raising their consciousness in this particular respect.

Very seldom I would suspect, a case doesn't have merit. A criminal act of some kind has taken place. The application comes in and would never have been launched had it not some intrinsic merit. The very fact there is an element of assault or a robbery or other form of criminal conduct involved in the situation is on its face evidence, as it were. I think that accounts for the very small number of applications being dismissed after being heard. Would that all be true?

**Hon. Mr. McMurtry:** I think that is quite accurate, Mr. Lawlor.

**Mrs. Campbell:** Do you know what the question was?

**Mr. Lawlor:** I thought I had to work a question in.

[11:15]

**Mr. Ziemba:** I have a cost-benefit type of question. In 1977 the board awarded \$1.6 million to victims and the administrative costs were \$438,000. Maybe that is the way government works, I really haven't checked out what we pay people to dispense money, but paying \$438,000 to dispense \$1.6 million seems kind of high.

We are going to be dispensing \$73,000 more in 1978 and it is going to cost half a million to give that money out. In other words, salaries alone are going to go up

\$100,000. Is it in order for me to ask who is going to get that whopping increase in salary; and would you be terribly upset if I asked you how much each one of the 12 people involved—

**Hon. Mr. McMurtry:** In answer to your first question, nobody is going to get any whopping increase in salary.

**Mr. Chairman:** I think we should take due note that it is an unusual circumstance for anybody in estimates to ask money-spending questions, so we certainly compliment Mr. Ziemba for raising that point.

**Mr. Ziemba:** We are not supposed to talk about money in estimates, is that it?

The question is, there is going to be \$100,000 increase in salaries and wages, even though only \$73,000 more is going to be awarded. I would like to know how much the chairman is paid and how much more he is going to be paid; also how many hours he sat last year and how many he expects to sit this year? Is that in order?

**Hon. Mr. McMurtry:** There were two new investigators to be hired and that accounts for part of the increase. I don't know the number of hearing days, but they will increase because there is an increased demand.

As you know, with the exception of the chairman all the members of the board are paid on a per diem basis.

**Mr. Ziemba:** What does the chairman get as an annual salary?

**Mr. Leal:** We are just checking it but it is in the neighbourhood of \$40,000; we will get that for you.

**Mrs. Campbell:** Could I ask at this point, does the chairman also get a pension at the same time the \$40,000 is paid?

**Mr. Leal:** I have no idea.

**Mr. Ziemba:** We shouldn't be asking these kinds of questions.

**Mrs. Campbell:** I don't know why not.

**Hon. Mr. McMurtry:** He doesn't get a pension from the Ministry of the Attorney General.

**Mr. Ziemba:** You say he was in Florida, Margaret. Is he back now?

**Mr. Leal:** Oh, yes.

**Mr. Ziemba:** He is back. How often would that board sit?

**Mr. Leal:** I am informed that the board usually sits three days a week; that is actually sits and determines cases. The administrative work, through the chairman, is carried on throughout the week.

I should perhaps—

**Mr. Ziemba:** He works a five-day week for his \$40,000?

**Mr. Leal:** Yes.

**Hon. Mr. McMurtry:** There used to be a vice-chairman of the board and the vice-chairman of the board is no longer there. He has not been replaced and the chairman does have that additional work load as a result.

**Mr. Ziemba:** The chairman and the vice-chairman are the two highest-paid members. Now you have 10 others. You say you are hiring two new investigators. You don't have them in your estimates, Mr. Attorney General.

**Mr. Leal:** The decision to hire those people came after these estimates were put together.

**Mr. Ziemba:** I see.

**Hon. Mr. McMurtry:** I am sorry. I was told that we—

**Mr. Hilton:** We don't have them at the moment.

**Mr. Ziemba:** You have 10 other people?

**Mr. Leal:** Perhaps I should draw the attention of the committee to the fact that the Criminal Injuries Compensation Board awards are a shared cost with the federal administration; in 1978-79 the contribution of the government of Canada was projected at \$423,000. I'm also informed that amount is increased in the next fiscal year at the rate of five cents per capita, from five to 10 cents per capita, so that there will be a substantial increase in the federal—

**Mr. Lawlor:** What was that figure again?

**Mr. Leal:** It was \$423,000. This will now be almost doubled. It goes from five cents per capita based on provincial population to 10 cents per capita, which is the formula by which the cost sharing is done.

**Hon. Mr. McMurtry:** You can give the Attorney General and Deputy Attorney General considerable credit for that tough negotiating that doubled the federal contribution at a time of restraint.

**Mrs. Campbell:** We do, we certainly do.

**Mr. Lawlor:** You negotiate your own salary.

**Mrs. Campbell:** I'd like to pursue this matter of the policy of the government. I don't know whether I can get it from this minister but it does seem to me that we have a policy for people in the lower echelons of this government as to their ability to collect pensions while they are engaged by the government after a retirement period. I wonder who in the world can give us the policy that is adopted for former cabinet ministers who go out on a pension and then have a position of this kind. It seems to me that that is



something somebody ought to be accountable for.

**Hon. Mr. McMurtry:** We're really talking a political question. My only observation will be—

**Mrs. Campbell:** I don't think it's political. I think it's financial.

**Hon. Mr. McMurtry:** We're not dealing with many individuals, and my only view is, talking about the chairman of the board—and I'll speak in a very personal manner, not in relation to government policy—this particular chairman served in the public life of this province for many years, including senior cabinet responsibility.

**Mrs. Campbell:** There's no question about that.

**Hon. Mr. McMurtry:** I think many people who serve in public service for any period of time, as the member for St. George will know from her own public service, usually do so at a financial sacrifice. I don't say this applies to everybody, but it certainly applies to a great many people. The fact that that person who is well, who has a contribution to make, I don't think the mere fact that they're receiving a pension related to their years of service in public life should disentitle them to an appointment of this nature.

**Mrs. Campbell:** I wasn't really suggesting that at all. Usually, though, when you come to staff—and we've had this raised before—they are not permitted to draw their pension while they are engaged or re-engaged in the government service after retirement age. It just seemed to me that we ought to know what the ground rules were. I am not speaking in any way to denigrate the service of this chairman. That wasn't my function. It's just a matter of wanting to know what our policies are and how they vary from, I suppose, classification to classification.

**Hon. Mr. McMurtry:** I'm really sorry that I can't assist you in that respect.

**Mrs. Campbell:** That question has been opened before and no specific answer has ever really been given.

**Hon. Mr. McMurtry:** I have no idea.

**Mr. Chairman:** Further questions?

**Mrs. Campbell:** Just one: If we are going to add staff, could the Attorney General give consideration to one more clerk or somebody to help to get reports through, as Mr. Lawlor suggested, at a more reasonable time?

**Mr. Leal:** We have undertaken to look at that, Mr. Chairman.

**Mrs. Campbell:** We are all trying to help you get more money for Justice.

**Hon. Mr. McMurtry:** I appreciate that; I sincerely do. I need all the help I can get, from every quarter.

**Mrs. Campbell:** If you'd like to invite us to your cabinet meetings, we would be happy to come and make our position clear.

**Mr. Chairman:** I trust that wasn't a motion, Mrs. Campbell.

**Mrs. Campbell:** No, it wasn't a motion.

**Mr. Lawlor:** Shall we form a delegation—you and I and Taylor—and go and see the Management Board of Cabinet?

Item 3 agreed to.

On item 4, Land Compensation Board.

**Mrs. Campbell:** Mr. Chairman, this board is almost a mystery to me when I see other matters. I wonder if there is a general sharing of what appears to be a considered opinion as to the efficacy of this board. We have at least one prominent person, I think, who doesn't think highly of it—

**Hon. Mr. McMurtry:** What do you mean?

**Mrs. Campbell:** I was thinking of a former great official in this province who is no longer an official of this province in the form of the Ombudsman.

**Hon. Mr. McMurtry:** I don't think the Ombudsman ever criticized the board. I think he was concerned about a chairman who was appointed for a specific purpose and who was not a member of the board.

**Mrs. Campbell:** No, I just thought that he felt that certain cases would not be usefully addressed—

**Hon. Mr. McMurtry:** Just to set the record straight: I think the Ombudsman wanted to send all of these matters in relation to Pickering to the Land Compensation Board.

**Mrs. Campbell:** And they wouldn't let him?

**Hon. Mr. McMurtry:** Yes, and up until the time that he left the job as Ombudsman the whole issue was not the incapacity of the Land Compensation Board to adequately determine the level of compensation; the issue was, as of what date should the level of compensation be determined?

**Mrs. Campbell:** I know.

**Hon. Mr. McMurtry:** In fairness to the members of the board, there was no suggestion by the former Ombudsman of a lack of confidence in the capacity of the board to carry out its mandate in a proper and effective fashion.

**Mrs. Campbell:** It was just the question of the mandate that was still open, I think.

**Mr. Lawlor:** Just a word on this board: If you look at page 93, you will see the days scheduled. In 1974-75, for example, there were 223 days scheduled and 124 days utilized. The projection for 1978-79 is 480 days scheduled and 250 days utilized—anticipated, I guess—or slightly more than 50 per cent.

It is not the board's fault; they set up these cases. Basically, the legal profession is very much at fault in this. If they hang up our courts by way of procrastination, adjournment and what not, then this kind of board is emasculated in its activities with respect to the hearings.

[11:30]

They have tried to tighten it up. They have set up something like a certificate of readiness; after appraisals have been filed and they've got all this stuff, then it is ready to go and there can be no excuse as the matter comes forward. Have you any particular thought as to how this situation can be rectified, because it's enormously costly? The board has to convene. It's ready to go and then it adjourns. The case goes out from under them at that particular point.

When they were before the Ombudsman's committee, they were quite blunt about it. They complained bitterly and were looking for modes of redress in this particular area. With the profession, it's extremely difficult. We may have to set up rules in terms of laws or under regulation or something like that to bring this matter to heel and to heal this matter.

**Hon. Mr. McMurtry:** As you've noted, the board has instituted new requirements with respect to the assigning of hearing dates and is very conscious of the need to adopt a tougher position in relation to adjournments. Is there anything you wanted to add, Mr. Hilton?

**Mr. Hilton:** Yes, I was speaking to the chairman about this matter as late as yesterday.

**Mrs. Campbell:** You've done your homework as late as yesterday.

**Mr. Hilton:** That's right.

**Mrs. Campbell:** You're a busy boy.

**Mr. Hilton:** I knew I was coming here as late as yesterday. In any event, I was concerned about the standing backlog of adjourned cases. I was suggesting to the chairman that he might do as the chief justice has done in the past, that is, have a show-cause hearing and, if people are not prepared to proceed, have their cases expunged. Then people would have to go back to square one and start over again.

He has advised me that he has started a procedure by mail advising people of exactly this. If it doesn't work, then he will carry out that which I suggested, namely, summoning them before the board to explain why the matters have stood adjourned for so long, because either municipalities or expropriated individuals are on the short end of the stick.

If it's municipalities, then it's the taxpayers. One way or the other the matter should be proceeded with. He is of the opinion, as you are and as he expressed before the other committee, that these matters should either be expedited or forced on by himself. If I may say, I encouraged him to take that position in our discussions yesterday. He already advised me he's about it.

**Mr. Lawlor:** This letter says basically no, but I suspect it says to the profession, "We're very much concerned about this issue. Unless you toe the line a little bit more, we're going to have to convene another procedure, something analogous to show cause. Would you kindly reply within 10 days saying where you stand and whether you're willing to proceed?"

**Mr. Hilton:** Precisely. It's a step. It may not be entirely efficacious, but it's an effort.

**Mr. Lawlor:** Good.

**Mrs. Campbell:** It seems to me when you've had these problems you can't suddenly change procedures, but you certainly have to warn the profession. As lawyers, we really do have a lot to answer for. We seem to want to run the whole show our way. Maybe there's a way of taxing them for delays. That probably would be more efficacious than anything else.

**Mr. Lawlor:** They sound like Frankie Sinatra sometimes.

Item 4 agreed to.

On item 5, Ontario Municipal Board:

**Mrs. Campbell:** Oh, dear! This board has caused me more concern, I suppose, than almost anything else. I must confess that I have changed my views backwards and forwards many times. I can recall speaking to the late Mr. Kennedy saying that I always felt they really overstepped themselves in overruling the local elected councils, but on the other hand I so much liked the way he approached the matter that I felt that with him there this was very sound. He said: "Aha, you want the fruit without the tree." I thought it was a typical remark of the late Mr. Kennedy.

Originally, it was a very important concept, because we had to do something about municipalities that were defaulting all over

the place at one stage of our history. And we had to bring about some kind of their financial affairs. I suppose that particular function was one that I could live with.

I can recall when we were dealing with the south side of Queen Street. I was on the board of control and we'd be summoned every once in a while to be asked what we were doing with this land. Everybody was trying to get us to turn it into a park and the OMB was saying we'd better get on with a use for this that is more profitable. It was a very difficult period in the history of Toronto. The planning function still disturbs me.

**Hon. Mr. McMurtry:** I don't want to interrupt the member other than to say that, of course, although we administer the board we don't administer most of the legislation that relates to the board's responsibilities. As Mrs. Campbell knows, the government is presently considering various recommendations that have been made to it in relation to the planning function of the board.

While I don't pretend to have the background that might be of assistance to assist me in making a contribution, such as a municipal background in relation to exercising those responsibilities in that very important area of government, I remember when I read the select committee report on the Ontario Municipal Board that predated my entry into the provincial Legislature, and I think Mr. MacBeth was the chairman of that committee, my recollection of that report was that as a committee of the Legislature travelled about the province there seemed to be an enormous amount of support for the functions of the board in the planning area.

I must admit I was very influenced. Although this was a few years ago, I think the fact that the board, despite its problems, at least as of that date, had obviously established quite a high level of credibility in the eyes of the public and I don't think that's something that should be lightly interfered with.

**Mrs. Campbell:** The difficulty with that board is that because it is a very public board people tend to view it through the eyes of the presiding person, and there is no doubt in my mind that Mr. Kennedy's approach was a very fine approach for all purposes. He certainly gave great consideration to the individuals who appeared and who couldn't possibly have the resources to develop a case against some very sophisticated people. That has changed, it seems to me, and I guess perhaps people are becoming more critical as a result of a change in the attitude of the chairman. I have had a number of

criticisms; I think some of which I have passed along to the Attorney General, including letters which I have received, particularly from the Annex, as to the kind of treatment they were accorded.

I don't know what kinds of criticisms there were with Mr. Kennedy, but I never received criticism from the public. I did receive criticism from some municipal officials, but that didn't really worry me all that much. It was the public that was served.

I'd like the Attorney General again to take a look at what seems to be a changing attitude where the public is not really regarded as being a part of the process. Perhaps the Attorney General, through his staff, could look at this operation and see whether something could be done to give back some confidence in the public at large.

**Hon. Mr. McMurtry:** The board, I think, has had a more difficult mandate to carry out in recent years, largely because of the passing by the Ontario Legislature of the Statutory Powers Procedure Act, about 1972.

**Mrs. Campbell:** That's right.

**Hon. Mr. McMurtry:** As a result, the hearings before the board are much more onerous. There may be as many as 100 objectors appearing with counsel, and myriad examinations and cross examinations.

With respect, perhaps Mr. Kennedy did not face this during his tenure on the board.

**Mrs. Campbell:** He would have handled it well, mind you.

**Hon. Mr. McMurtry:** I am sure he would have. But it is a very difficult task the board members have to carry out. We get criticism, from time to time, of individual board members who, it is alleged, haven't treated the members of the public with the respect that members of the public expect. Again, put in perspective, these criticisms are really pretty few in number considering the number of hearings, and the number of hearing days the board engages in. My own view is the board still enjoys a great deal of credibility with the public. I think they are still a favourite target of municipal politicians who understandably feel upset when, as elected representatives of a local municipality, their planning decisions are overturned by the board. This is a very human response.

**Mrs. Campbell:** The difficulty, of course, is the board really chooses, I'd say, between the planning expertise of one group over against the planning expertise of another. That always bothers me, I have to tell you, particularly knowing the careful way in which the city of Toronto, for example, reviewed plans and came to conclusions. Certainly, the



practice of intervention with that board doesn't appeal to me either—that a government elected official can intervene, and himself in essence overrule what a municipality has determined as in its best interests; that kind of intervention.

[11:45]

**Hon. Mr. McMurtry:** As I say, this is a problem with which the government as a whole must wrestle as it considers the Comay report and other submissions that have been made.

**Mr. MacBeth:** Mr. Chairman, I just wanted to speak briefly about the select committee's work back in 1972, I believe it was, with the OMB. We had a good committee at that time. There were many of us who had come straight from municipal life, including Phil Givens and myself, who had received a few rebuffs at the hands of the OMB during our time on the municipal councils and who were upset by the fact that a non-elected body could overturn the decisions, sometimes hard decisions, made by the elected councils. There was some prejudice, with one or two of us anyway, when we went on that select committee.

But after travelling about the province and outside the province—we didn't get outside the country but we went as far as British Columbia—but particularly travelling about Ontario and talking to the citizens, we found regrettably, that the citizens regarded the OMB as their protection from the elected councils.

**Mrs. Campbell:** Their saviour.

**Mr. MacBeth:** If we were to follow the evidence we received, we had to come down in support of retaining the OMB.

That, of course, is exactly what the report did. We recommended ways that it could speed up its procedures. We had some interesting thoughts in regard to appeals to cabinet in there as well which cabinet has never adopted, although I think they would save cabinet some grief if they were adopted. But for the most part, we thought the citizens thought the board was performing a worthwhile function and that it should continue. That is what the report said.

**Mr. Lawlor:** You were a great chairman.

**Mr. MacBeth:** I am not so sure about that.

**Mr. Lawlor:** If I didn't hear the Attorney General rightly, tell me I was wrong, but he spoke of increased volume of work. May I point out that in 1974 there were 8,156 cases and in this year there were 8,586.

**Hon. Mr. McMurtry:** You can't go on the number of cases you have. It is the length of the hearings that is important.

**Mr. Lawlor:** Recently, they were somewhat extraordinary vis-à-vis the city of Toronto hearings as they took place. If I may contrast this year's situation with last year's, at page 79: "It is expected that the board will process some 10,000 applications." And this year it says: "It is expected the board will process 8,500 applications, resulting in about 2,000 public hearings." Last year it was 2,500. That has to be taken into account too.

The revenue situation has decreased. Last year it was \$550,000 and this year it is expected to be \$503,000. That figure is down, which again has something to do with the weight being placed on the operations of the board.

What I am saying is that in the golden days of Mr. Kennedy, who was a particularly sensitive and aware person, particularly with respect to certain currents running into the 1960s of participation, of democracy, of people being able to appear, I had quite a number of cases in those days; I even made a little bit of money out of it. I would take some of the cases before the board, with fairly high-powered counsel representing developers and others. Almost invariably I was awarded costs, which was a kind of godsend that came at the end of the day and somewhat unexpectedly so that I could buy a whole library of new books, which is the greatest gratification I can think of.

Whenever I get depressed, I go and buy a book. Such is the literary intelligence; instead of drinking, it debauches one in other ways.

I want to refer for a moment to the Comay report; you mentioned it, and I am interested in what your thinking about it is. But it probably won't come through you, though.

**Hon. Mr. McMurtry:** I can't comment very much on the Comay report, Mr. Lawlor. It is a matter that is being considered by cabinet, and it does not relate directly to my responsibilities as the minister in charge of the administration of the board. I just want to make that point in opening. I don't think it is appropriate for me to comment on the Comay report until cabinet has an opportunity to make some determinations in relation to the Comay recommendations.

**Mr. Lawlor:** Let me point out one sentence. There is a whole chapter on the Ontario Municipal Board which is quite perceptive. It says, "If the board is to serve as

an ideal body from council decisions, we believe it should not be hearing matters on a de novo basis as it does today. The board is now required to consider the expediency of the proposals before it and, for zoning by-laws, the merits of each objection. It must, therefore, hold a hearing."

To foreshorten this, what it comes down to is that if council's decision were so unreasonable as to trespass upon natural justice and rights of fair hearing, it would go to the courts. But, with respect to the presentation of evidence and whether it was adequately, correctly and objectively reviewed by the municipal council, it should stand.

I think that is a fundamentally valuable situation. The business of going before the board when a council has ruled in a particular way and completely reversing that council is probably wrong in principle, particularly the maturation of councils throughout Ontario.

Probably the jurisdiction in this particular matter should be cut back and to the extent that you have any input in cabinet—which is probably minimal—

**Hon. Mr. McMurtry:** I will choose to ignore that.

**Mr. Lawlor:** You choose to ignore that.

**Hon. Mr. McMurtry:** A very unfortunate slight.

**Mr. Lawlor:** I am only following up on your own diminishment of your role in this particular area, such as it is. I would take very much the nostrums into consideration.

When we talk about the golden days of Kennedy, he did give recognition status before the board to groups. The present board doesn't say no, but on occasion it does. It won't hear. It says, "What corporate status, what entity position have you got? Are you within 400 feet?" and, therefore, actually won't hear.

What the board's practice seems to be is not to hear evidence and not to hear counsel representing ratepayers or interested groups, but to receive a brief at the end of the argumentation and say, "We will put it on the record." That's not very satisfactory, because one has no final assurance that the board members are going to read that brief or take the position of these individuals into account. That is surely wrong; it is surely a throw-back. It doesn't give proper representation to people who put themselves out a very great deal to appear before that board, in order to make these representations. They sit like stuckins in the audience and are excluded from the hearings. It leaves a great deal of resentment.

**Mrs. Campbell:** I've heard of stuckies but I've never heard of stuckins.

**Mr. Lawlor:** My mother's favourite word was stuckins. It meant rather foolish and somewhat backward people. Stuckies is a Scots word, for heaven's sake. Let's talk English.

**Mrs. Campbell:** What is the derivation of stuckins?

**Mr. Lawlor:** It comes from stuckies.

**Mr. Chairman:** We only have 19 minutes left.

**Mr. Lawlor:** Somebody's sense of humour is almost negligible. He wants to get the damned thing finished.

**Mrs. Campbell:** I will just reiterate the request I made of the Attorney General. One of the things I have been happy about with this Attorney General is that there seems to have been developing an openness in the whole Justice field. We do get some fresh air blowing through and I congratulate the Attorney General. I do so publicly on occasions whenever I feel that is the trend. I have some reservations in other areas, but where the trend is an open trend, I salute you.

The difficulty here, as Mr. Lawlor indicates, is that we seem to have reversed that trend. I would like the Attorney General to take a look at the way in which this board functions. If, for instance, there are problems because of the various pieces of legislation over which the Attorney General has no jurisdiction, that's one thing. But the actual functioning of the board is, to me, entirely within the jurisdiction of the Attorney General.

I really do have great concerns that it is moving backwards. I don't really want to reach the age of Dickens all over again. I would like to keep it moving ahead with the same philosophical approach as there is in the general Justice field.

**Hon. Mr. McMurtry:** In response, I would certainly invite and encourage any of the members of this committee or of the Legislature to advise me of matters where they feel the public has not been treated fairly. It would be of assistance to me if I have this information. I know that the member for St. George has corresponded with me on occasion.

I can give her and the other members of the committee my assurance that we will monitor the situation very closely.

**Mrs. Campbell:** Good. Your letter back on those particular cases was, with respect, a sort of recitation of a litany rather than looking at the way in which the people them-

selves perceive the operation to be. The Annex area is a very important area, as you know.

**Hon. Mr. McMurtry:** Yes, I certainly do.

**Mrs. Campbell:** You are aware of it.

**Hon. Mr. McMurtry:** They didn't treat me very well five years ago, but I have tended to overlook that fact.

**Mrs. Campbell:** Overlook and forgive them. You don't need to worry about that anymore. They are still people who have a good deal of sophistication. When they are angry they tend to be pretty vocal, and rightly so.

Item 5 agreed to.

Vote 1307 agreed to.

**Mr. Chairman:** Here endeth, with 14 minutes to spare, the estimates of the Attorney General.

[12:00]

**Hon. Mr. McMurtry:** I'd just like to say, Mr. Chairman, once again, that I've enjoyed very much hearing from the members of the committee. As has been my experience in the past, many useful suggestions have been made and I would just like to thank all the members of our committee who participated for their interest in the administration of justice and the very positive way in which

they treated the whole estimates process this year.

Thank you, Mr. Chairman, for once again presiding in an admirable fashion.

**Mrs. Campbell:** He was a bit too sanctimonious in some of them. Your job wasn't as tough as it was on the condominium legislation.

**Mr. Chairman:** I have had much more difficult tasks than presiding over your estimates, Mr. Attorney General, but I have none the less enjoyed them. Order please. Mr. Ziembra is asking a question.

**Mr. Ziembra:** I'm just making a statement. As a member of the committee I'd like to thank the Attorney General's staff for being co-operative and accountable to us. They answered our questions fully and we are all satisfied with the way they conducted themselves during the estimates. In fact, I'd like to thank both critics for asking those questions that were more interesting than they have been in other years for lay people on this committee. I could follow most of what you were talking about, so I would thank you as well.

**Mrs. Campbell:** We have an Attorney General who answers in such blanket fashion such complicated questions.

**Mr. Ziembra:** Lawyers can be boring.

The committee moved to other business.



## CONTENTS

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Wednesday, November 22, 1978

<b>Administrative tribunals program</b> .....	J-459
Assessment review court .....	J-459
Board of Negotiation .....	J-462
Criminal Injuries Compensation Board .....	J-463
Land Compensation Board .....	J-468
Ontario Municipal Board .....	J-469

## SPEAKERS IN THIS ISSUE

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Campbell, M. (St. George L)

Lawlor, P. D. (Lakeshore NDP)

McMurtry, Hon. R.; Attorney General; Solicitor General (Eglinton PC)

Philip, E.; Chairman (Etobicoke NDP)

Ziemba, E.; Acting Chairman (High Park-Swansea NDP)

**From the Ministry of the Attorney General:**

Leal, H. A., Deputy Attorney General

Hilton, J. D., Assistant Deputy Attorney General, Common Legal Services

















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